

1	PRELIMINARY INSTRUCTIONS	
2	BY THE COURT	18
3	OPENING STATEMENTS	
4	BY MR. CHRISTIAN	28
5	BY MR. JARRARD	47
6	BY MR. FOX	54
7	BY MR. WOLFE	62
8	BY MR. HOGUE	76
9	BY MR. PATE	84
10		
11	JURORS EXCUSED	92
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 P R O C E E D I N G S

2 June 9, 2014

3 (PRELIMINARY MATTERS OUTSIDE PRESENCE OF JURORS)

4 THE COURT: Anything to discuss before we bring
5 the jury in?6 MR. CHRISTIAN: Yes, Your Honor. Mr. Jarrard,
7 on behalf of his client, Defendant Christopher Hall, has
8 provided the government with some demonstratives that he
9 intends to use during opening. May I pass them forward to
10 the Court?

11 THE COURT: You may.

12 MR. CHRISTIAN: Your Honor, the government
13 objects to the use of these demonstratives. It appears
14 from the demonstratives that what Mr. Jarrard intends to
15 do is put up a photo of an uninjured inmate who attacked
16 an officer with a photo of an injured officer.17 For example, Franklin Jones, an inmate, attacked
18 Officer Jason Davis in a dorm in a housing unit.19 THE COURT: Let me interrupt you. You can't
20 put up evidence unless the other side agrees to it and if
21 they object to it it doesn't go up.

22 MR. CHRISTIAN: Okay. I understand they --

23 THE COURT: Unless there's something I'm
24 missing here.

25 MR. CHRISTIAN: No. My concern was more of if

1 that's where the demonstratives are going that suggests to
2 me that's where the argument or the opening is going and I
3 have some concerns on that score.

4 MR. JARRARD: Your Honor, are you saying -- I
5 mean, it's my position those are demonstrative evidence of
6 what I intend to cover in my opening statement.

7 THE COURT: A picture of an inmate? You say
8 it's not to be an exhibit? It's demonstrative exhibit?

9 MR. JARRARD: Yes, Your Honor. I don't intend
10 to make that an exhibit.

11 THE COURT: Demonstrative of what?

12 MR. JARRARD: Of the person I'm talking about.
13 The inmates involved in these four instances as listed in
14 the indictment.

15 THE COURT: Well, that's evidence. I mean, the
16 rule is well known, I think. You know, evidence doesn't
17 go in during opening. A lot of times lawyers agree that
18 you can display evidence during opening, but they don't
19 have to agree.

20 MR. JARRARD: Okay, Your Honor. If that's the
21 Court's ruling.

22 THE COURT: If you know another basis for
23 putting in evidence during the opening that hasn't been
24 admitted I'll consider it.

25 MR. CHRISTIAN: Actually, Your Honor, that's

1 the tip of the iceberg as far as the government's concerns
2 here. But just to explain. Franklin Jones was an inmate.
3 He assaulted an officer named Jason Davis. It wasn't an
4 altercation. He just attacked Jason Davis, blindsided
5 him, hit him with clippers, seriously injured Officer
6 Davis.

7 The government alleges that Franklin Jones was
8 then taken from the dorm, the housing unit in handcuffs to
9 the gym. Inside the gym he was beaten in retaliation for
10 that prior incident.

11 But what Franklin Jones did to Officer Davis,
12 other than the fact of injuring him, was really of no
13 consequence to any element of the charges. It's of no
14 consequence to any potential defense. And the notion that
15 defense counsel will get to wave around bloody photos of
16 Officer Davis or blood on the floor from the dorm goes
17 straight to nullification. It's more prejudicial than
18 probative. It sheds no light whatsoever on whatever
19 happened in the gym.

20 As the Court recognized during the pretrial
21 hearing, if it, like the government says, in fact,
22 happened, these inmates were taken to another location in
23 handcuffs and beaten in retaliation, then whatever
24 happened, whatever happened in the dorm sheds no light on
25 that. And so I'm concerned by the demonstratives because

1 it suggests to me that what the defense is going to do in
2 opening arguments is say, let's compare the officers'
3 injuries' with the inmates injuries and you tell me which
4 one should be charged?

5 MR. JARRARD: Your Honor, may I first get
6 clarity. Is it Mr. Christian's position that some of
7 these are appropriate demonstratives?

8 THE COURT: No. Now he's talking about the
9 substance of your argument.

10 MR. JARRARD: I understand that, Your Honor.
11 That was my first question. But --

12 THE COURT: Not argument, opening. Pardon me.

13 MR. JARRARD: The government alleges that these
14 four instances are the overt acts of the conspiracy. The
15 government tries to carve out that we can't talk about the
16 underlying assaults on the guards. I don't think the
17 Court has ruled in pretrial that we cannot. Moreover,
18 Your Honor, these are specific-intent conspiracies.

19 So the issue of what these guards were reacting
20 to at the time is directly relevant to our defense that
21 these gentlemen didn't have a specific intent to conspire
22 to do anything. If they're reacting to these instances of
23 the four inmate-on-guard assaults, one, I don't think Your
24 Honor has ruled. We can't talk about what transpired in
25 those assaults. I presume Mr. Christian is saying that we

1 can't show any of the evidence that the government has
2 produced about the attacks of the guard -- I mean, the
3 inmates on the guards. That guts our defense, my defense,
4 Your Honor, that I can't talk about the facts leading up
5 to -- even if we confine it to the instances in the
6 indictment, I can't talk about the facts leading up to
7 when the government says these gentlemen conspired to do
8 anything and what they were thinking at the time.

9 I think it's directly relevant that we talk
10 about the -- be allowed to talk about the four attacks
11 mentioned in the indictment and what happened just seconds
12 or minutes before the government says that some conspiracy
13 either existed or was formed.

14 I mean, the government wants to carve it up and
15 say we have to sanitize it down and all we can talk about
16 is the time when these inmates left the dorm until when
17 they went to the gymnasium.

18 I understand the government can take that
19 position, but our defense is directly contrary to that.
20 Our defense is what was happening.

21 Your Honor, you have ruled. We can't talk about
22 prison conditions, I understand that. But what was
23 happening in the four overt acts alleged in the indictment
24 from the time of the attack until whatever transpired
25 elsewhere outside of E dorm, all of that timeline is

1 relevant to our defense, I think all of our defense, and
2 certainly relevant to my defense, that there was no
3 conspiracy to do anything as it relates to these inmates
4 but to react to the circumstances these gentlemen were
5 facing.

6 MR. CHRISTIAN: Your Honor, what we talked
7 about before was if these Defendants were asserting a
8 self-defense argument then that would be one thing. They
9 haven't thus far. All of their previous statements do not
10 assert self defense. Their defense thus far has been we
11 weren't there. We didn't do it. It wasn't us. So under
12 that defense it really doesn't matter what happened in the
13 dorm, whether an inmate had a weapon, whether an inmate
14 had seriously injured somebody or only moderately injured
15 somebody. None of that matters if your defense is we
16 weren't there.

17 If it was self defense, the inmate was armed, we
18 knew he was dangerous because he had injured this guy who
19 was trying to run away and we had to go tackle him and
20 then maybe punched him a few too many times. Sure, I
21 would concede that there's some relevancy there. But not
22 here without a self-defense argument.

23 MR. JARRARD: Your Honor, Mr. Christian can
24 type what he anticipates our defense to be all he wants.
25 Our defense will be set out -- well, my defense will be

1 set out in my opening statement. And if our defense is
2 that to the conspiracy charge, if nothing else, that
3 members of the jury, you should not find my client and
4 these other gentlemen guilty of having a specific intent
5 to willfully violate the civil rights of Terrance Dean and
6 these other three inmates. I submit to you we have to be
7 able to present the story about what happened from the
8 time of the inmate-on-guard attack up through the time
9 that the government has a theory about what transpired.

10 MS. GOMEZ: Your Honor, also there is some
11 timestamp events that are very important to Mr. Lach's
12 defense because it proves that -- I'm not just talking
13 about just Mr. Lach. There are some of us relying on the
14 videos from the incidents because it has impeachable
15 information for when people left, when people came in,
16 when people didn't do certain things. So to say that we
17 can't use those videos will eviscerate our defense.

18 MR. PATE: And Your Honor, just for Mr.
19 Griffin. I mean, that's absolutely correct. The incident
20 doesn't begin in the gym. The incident begins in the
21 dorm. That's when the code is called. That's when the
22 video starts to run. That's when the CERT officers
23 respond. We have to put it into context with the jury as
24 to what's going on. Why are all these people running into
25 the dorm? Why is it as hectic as it is?

1 The government alleged these four incidents in
2 the indictment, those overt acts. An inmate at MSP struck
3 an officer. Well, that's not quite what happened.
4 There's a lot more to it than that.

5 And to ask the jury just to ignore everything
6 about the case up until they walked into the gym doesn't
7 allow any of these Defendants to present a defense.

8 MR. JARRARD: And it certainly doesn't allow us
9 to put evidence in front of the jury about what was in
10 their minds at the time of the overt acts of the
11 conspiracy.

12 MR. CHRISTIAN: But again, Your Honor, we're
13 not talking about whether this was an accident or not.
14 We're not talking about whether they punched one too many
15 times. It's simply was that Defendant there or not.

16 And unless and until the defense established
17 some foundation that these underlying incidents -- in
18 particularly the Franklin Jones one. I think there are
19 arguments to be made regarding Mario Westbrook, there are
20 arguments to be made regarding Terrance Dean.

21 With regard to Franklin Jones I don't think
22 they've established any foundation for the relevancy of
23 this information and why it's more probative than
24 prejudicial.

25 MR. JARRARD: Your Honor, it's alleged to be

1 the first overt act of the conspiracy.

2 THE COURT: What were you going to do with the
3 picture of this wound?

4 MR. JARRARD: Your Honor, that is inmate Jason
5 Davis. I'm sorry, Officer Jason Davis.

6 THE COURT: And what were you going to do with
7 it?

8 MR. JARRARD: Describe the assault on Officer
9 Davis.

10 THE COURT: Why is it necessary for the jury to
11 see the picture of his wound?

12 MR. JARRARD: Because --

13 THE COURT: Is there a timestamp on here or
14 something like that, Ms. Gomez?

15 MS. GOMEZ: Your Honor, there is a --

16 MR. JARRARD: That was provided by the
17 government in discovery.

18 THE COURT: No, I'm talking -- Ms. Gomez raises
19 an argument that I can understand which is that there
20 might be some timing issues that this evidence would shed
21 some light on.

22 MS. GOMEZ: There are in the videos.

23 MR. JARRARD: Well, Your Honor, my client
24 responded to -- Mr. Davis -- my client, we submit the
25 evidence will show, sat there with Officer Davis holding a

1 rag on him to keep him from bleeding to death while the
2 other things were happening at the time of the Franklin
3 Jones' incident. That's part of our defense.

4 Part of our defense is that when the government
5 says the CERT team was removing Franklin Jones and
6 alleging beating him somewhere out of the E dorm, Chris
7 Hall is sitting there trying to save a man's life.

8 THE COURT: And why is a picture necessary for
9 that? The picture of the wound?

10 MR. JARRARD: Because it's part of what he was
11 responding to, Your Honor. If we're talking about --

12 THE COURT: Why is a picture necessary for
13 that? He said he was holding his head. Why is the
14 picture of the wound necessary?

15 MR. JARRARD: Well, Your Honor, I think you've
16 already told me I can't put that up. It may become
17 relevant as the trial develops.

18 THE COURT: Well, I just want to understand
19 your argument. Tell me why you think the picture of the
20 officer's wound is relevant?

21 MR. JARRARD: Because that is what my client --
22 at least I know my client was faced with when he went into
23 E dorm on the first alleged overt act of this conspiracy.

24 THE COURT: Now --

25 MR. JARRARD: I mean, Judge, the conspiracy is

1 a specific intent crime. The jury has got to find that my
2 client specifically -- when he's reacting to that incident
3 and the other three instances, that he specifically
4 intended to violate the civil rights of these inmates.
5 What's happening, what leads up to -- and this is a seven
6 minute, two minute -- you know, what leads up to the
7 alleged assault on that inmate, I think, is relevant to
8 his state of mind.

9 And it's not just some sanitized version of
10 okay, he came into an assault on an officer. I mean, this
11 man saw that -- that's what he was presented with when he
12 came in the dorm was that injury. And he's reacting to
13 that. I don't know of any other way to quantify it
14 but --

15 THE COURT: Well, that's kind of where you left
16 it at the pretrial conference. And the end result of that
17 argument necessarily is and hence it was understandable,
18 it was justifiable that they did what they did.

19 MR. JARRARD: It may be, Your Honor.

20 THE COURT: Mr. Jarrard, thank you. You may
21 have a seat. Now, this is not precisely the issue that we
22 talked about before in that it does involve the actual
23 assaults on guards that led to the overt acts. I think
24 the Defendants are entitled to some latitude in setting
25 the scene for that.

1 I think it's a dangerous game. If you're going
2 to ask this jury -- well, I think it's potentially a
3 dangerous game, I'll say that. I'm not going to let it
4 get to the point where it becomes a dangerous game for the
5 Defendants.

6 I can't right now conceive of any reason why the
7 jury would need to see this. Is it necessary? Or would
8 it be relevant for there to be some testimony about what a
9 particular Defendant did as he came to the scene and saw
10 that another guard had been assaulted and how the events
11 unfolded from then? Yes. I think there is a need to get
12 into that.

13 The fact that Defendant would want to put in
14 this picture, based on what I know now, lends a lot of
15 credence to the government's concern.

16 So, I'm agreeing with you to a point. I would
17 like to think that it's a point that we can work through
18 so that the relevant evidence is admissible without us
19 venturing into improper territory.

20 MS. GOMEZ: Because, Judge, there are going to
21 be points in this case where the video, even though not
22 the greatest quality in the world, when certain people are
23 going out, when certain people are leaving, directly
24 contradicts some of the testimony of specifically the
25 cooperating witnesses.

1 Even though the picture is nothing but the video
2 with the timestamps, it's going to show some blood and
3 some stuff like that. But that is not the reason for it.
4 It's to establish the whereabouts of the people and I
5 think we should be allowed to use those.

6 THE COURT: I don't know enough about it yet to
7 say, but with the points you make provides some reason why
8 that might be relevant.

9 Does that take care of things as far as openings
10 are concerned?

11 MR. CHRISTIAN: I hope so, Your Honor.

12 THE COURT: All right. Let's bring our jury
13 in.

14 (JURORS ENTER COURTROOM)

15 THE COURT: Welcome back, ladies and gentlemen.
16 In just a moment I'm going to have an oath administered to
17 you. Let me just talk for a moment first.

18 Again, I want to tell you how much we appreciate
19 your being here and how necessary your service is. We
20 know it's an inconvenience so I want to talk a little bit
21 about scheduling first.

22 Number one, even though we're getting started a
23 few minutes late, one thing that I commit to you and the
24 lawyers join me in this, is that when you're here at the
25 courthouse we want y'all in the jury box listening to

1 testimony or listening to the arguments or statements of
2 counsel as opposed to sitting back in the jury room while
3 we argue over things in here.

4 We can work early, we can work late to take care
5 of those things but sometimes things happen that we just
6 can't avoid talking about, things outside of your
7 presence. But generally speaking, when y'all are here at
8 the courthouse I want you sitting in the courtroom sitting
9 in the jury box listening to testimony. And we recognize
10 again how valuable your time is.

11 Now, about scheduling. We've got a couple of
12 options here and I want y'all to talk about this and maybe
13 before you leave we'll see if we can make a decision.

14 Typically the court schedule is 9:00 o'clock to
15 roughly 5:00 o'clock with a midmorning break, a
16 midafternoon break and a lunch. In trials that are going
17 to last a week or two or maybe longer there's an
18 alternative schedule that we sometimes use and we have
19 found that the jurors like this alternative schedule. It
20 doesn't work for every juror and it doesn't work in every
21 case but it goes like this. We would start the day at
22 8:00 o'clock and do a midmorning break of 20 minutes and
23 then we would take another break later in the day of
24 another 20 minutes and then we'd stop at 2:00 o'clock.
25 You'd be free to go at 2:00 o'clock and we'd have things

1 we need to work on so that we'll be ready for the next
2 day, but you're out of here by 2:00 o'clock.

3 We can't take a lengthy lunch break. If we do
4 that, that defeats the purpose if we let you go for an
5 hour or an hour and fifteen minutes. We also can't buy
6 you a full lunch. But what we can do is bring in some
7 snacks and fruit and if you want to bring along a sandwich
8 or something like that we'll have drinks; we'll have some
9 snacks back there. Maybe that second break, if we do that
10 8:00 to 2:00 day, you could eat a sandwich, eat some
11 crackers or whatever else, but we'd take just about 20
12 minutes so that we could get back in here.

13 What we find is if we're disciplined, if we keep
14 those breaks to 20 minutes we can do just as much work
15 from 8:00 to 2:00 as far as testimony is concerned as we
16 can from 9:00 to 5:00. But it frees up your afternoons at
17 least to some degree. So that's an option.

18 When you go back to the jury room I'll let Teri
19 go back with you and you can maybe give us the benefit of
20 your thoughts about that.

21 You got to meet Teri already. Tammy Fletcher is
22 our court reporter. Her job, of course, is to take down
23 everything that is said.

24 Nicole Paschal is one of my law clerks and she's
25 assigned to this case so she'll be helping me throughout

1 the trial.

2 Those are the preliminaries I wanted to talk
3 about. Ms. Hatcher, would you administer the oath please.

4 COURTROOM DEPUTY: (JURORS REPEATING OATH) I do
5 solemnly swear that I shall well and truly try the issues
6 here and now joined in this indictment and a true verdict
7 make according to the law and the evidence, so help me
8 God.

9 THE COURT: Thank you, Ms. Hatcher. I invoke
10 the rule of sequestration. So, if we have any non-party
11 witnesses or representatives in the courtroom they will
12 need to leave. Do we have any?

13 MR. HOGUE: Just one moment, Your Honor.

14 THE COURT: What has just happened, ladies and
15 gentlemen, it's a routine thing. At the beginning of a
16 trial the rule of sequestration is invoked. That means
17 that unless a witness is testifying he or she can't stay
18 in the courtroom. The parties, of course, can but the
19 witnesses, non-party witnesses are not allowed in the
20 courtroom until after they've testified. I think you can
21 appreciate the reason for that. We don't want witnesses
22 -- I'm not saying anybody would do anything wrong, but we
23 just want witnesses to testify based upon their own
24 knowledge and not be influenced in any way by having been
25 in the courtroom and heard what some other witnesses might

1 have said. So, the rule of sequestration has been
2 invoked.

3 And now I need to give you some preliminary
4 instructions. You have been empaneled to try the case of
5 the United States of America versus James Hinton,
6 Christopher Hall, Ronald Lach, Jr., Delton Rushin, Derrick
7 Wimbush and Tyler Griffin.

8 This is a criminal case as contrasted to a civil
9 case. Criminal trials result when a person accused of a
10 crime in an indictment returned by the Grand Jury enters a
11 plea of not guilty, thereby denying all essential
12 allegations of the indictment.

13 The allegations of the indictment on the one
14 hand and the plea of not guilty on the other form the
15 issues which you must resolve, namely whether the
16 Defendants are, in fact, guilty of the crimes that they've
17 been charged with in the indictment.

18 Now, there are there basic things that you need
19 to remember about a criminal case. First, as I said
20 earlier, the Defendants are presumed innocent until proven
21 guilty. The indictment against the Defendants brought by
22 the government is just an accusation, nothing more than
23 that. It is not proof of guilt or anything else. The
24 Defendants start out with a clean slate.

25 Second, the burden of proof is on the government

1 at the beginning of the case and until the end of the
2 case. The Defendants have no burden to prove their
3 innocence or to present any evidence or to testify.

4 Third, the government must prove the Defendants
5 guilty beyond a reasonable doubt. And I'll give you
6 further instructions on that particular point later.

7 But bear in mind that the level of proof
8 required is high.

9 It will be your duty to ascertain the truth of
10 the case from a factual standpoint from the evidence and
11 only from the evidence presented. The evidence consists
12 of two things; the testimony of witnesses who will take
13 the stand and testify under oath and exhibits, documents
14 and other things that I admit into evidence.

15 I caution you that what the lawyers say is not
16 evidence. The inference and suggestions which the lawyers
17 make in their questions is not evidence. Of course, if a
18 Defendant agrees with a question asked by a lawyer then
19 that is evidence; that is the witness's agreement with
20 something that a lawyer has posed in his question.

21 The opening statements that lawyers give, which
22 you'll hear in a moment, and their closing arguments which
23 they give at the conclusion of the trial, are not
24 evidence. What I tell you is not evidence. Again, the
25 evidence is from the witnesses and it's from the documents

1 and other things that I admit into evidence.

2 Some evidence proves a fact directly, such as
3 witnesses who can establish that it was raining because
4 they went outside and got wet. That's direct evidence.
5 You got outside and you're wet; that's pretty good
6 evidence that it's raining.

7 But other evidence proves a fact indirectly,
8 such as a witness who did not personally see or experience
9 the rain, but he saw wet grass outside, and saw people
10 walking into the courthouse carrying wet umbrellas, for
11 example, this is indirect evidence. Sometimes it's called
12 circumstantial evidence. And it's simply evidence of a
13 chain of circumstances that can prove a fact.

14 Now, as far as the law is concerned it makes no
15 difference whether evidence is direct or indirect, direct
16 or circumstantial. You may choose to believe or
17 disbelieve either kind of evidence and you should give
18 every piece of evidence whatever weight you think it
19 deserves.

20 Again, it will be my duty to determine what law
21 is applicable to this case and to instruct you on that
22 law. At the end of the trial, after you've heard all the
23 evidence, I will give you detailed instructions on what
24 the law is that applies to this case.

25 After that you will take the law, as I have

1 explained it to you, and apply it to the facts of the case
2 as you find them to be. And by this process the
3 application of law to fact and fact to law you will arrive
4 at a verdict.

5 The trial begins with the opening statements of
6 the attorneys. In these opening statements the attorneys
7 will explain to you their contentions about the facts of
8 the case. As I've said, these statements are not
9 evidence. They are important and you should listen
10 carefully to the opening statements, but the statements
11 themselves are not evidence.

12 After the opening statements the government will
13 then call and question its witnesses and the government's
14 witnesses will be cross examined by defense counsel.

15 When the government has presented its evidence
16 then the Defendants may call witnesses and present other
17 evidence, if they wish, but the Defendants are under no
18 obligation to present any evidence and no unfavorable
19 inference shall be drawn against the Defendants if they do
20 not present evidence.

21 The entire burden of proving the guilt of the
22 Defendants is upon the government. The Defendants are not
23 required to prove their innocence.

24 In order for your verdict to be fair you must
25 not be exposed to any other information about the case or

1 law or any of the issues involved in this trial during the
2 course of your jury duty. This is a very important point
3 and I'm going to take some time to talk about what I mean
4 when I say that.

5 First, during the trial you must not discuss the
6 case in any manner among yourselves or with anybody else
7 and you must not permit anyone to attempt to discuss it
8 with you or in your presence. I instruct you that should
9 you have any conversation or communication with the
10 lawyers -- you should not have any conversation or
11 communication with the lawyers or anyone else connected
12 with the case, other than court personnel.

13 In fact, when you pass a lawyer or maybe even a
14 party in the hallway they are not being rude when he or
15 she doesn't speak to you. They just understand this rule
16 that they cannot have any communication with you. So
17 understand that's the reason they're ignoring you.

18 Also, you must not try to get information from
19 any source other than what you see and hear in this
20 courtroom. That means you can't speak to anybody else,
21 including your family and your friends.

22 You may not use any printed or electronic
23 sources to get information about this case or the issues
24 involved. Of course, I'm talking about the internet, TV,
25 radio, reference books, magazines, whatever. You cannot

1 go out and allow yourself to be exposed to any information
2 about this case. That means you can't do any personal
3 investigation, including visiting any of the places that
4 might be involved in the case, talking to any possible
5 witnesses, creating your own demonstrations or
6 re-enactments of the events, which are the subject of the
7 case, googling or otherwise searching the internet to
8 gather information about the case or anyone involved in
9 the case, including the lawyers.

10 Now, I know that's natural these days. We all
11 google to look up things all the time. I understand I'm
12 asking you to do something that is probably fairly routine
13 for you to do but you just can't do it on anything related
14 to this case.

15 Similarly you can't allow anybody to try and
16 give information to you, by e-mail, text, tweet, blog,
17 chat, whatever the case may be. You just cannot allow
18 yourself to be exposed to any information until after a
19 verdict has been returned.

20 I understand, again, that these place some
21 restrictions on you on things that you normally do. I
22 hope you can understand the significance and importance of
23 these instructions though.

24 Our system of justice is based upon the idea
25 that the evidence comes into court and it gets tested.

1 The parties have the opportunity to test the evidence and
2 make sure that it's reliable and they do that by the
3 adversarial process. They know what the evidence is.
4 They can try and discredit it; they can try and impeach
5 it. They test it to make sure that it's reliable
6 evidence.

7 If you go off and google something to try and
8 get some information -- I say you, of course, I'm speaking
9 if someone were to go off and google and try and get
10 information, the lawyers aren't going to know about that.
11 They won't have an opportunity to test that information to
12 make sure it's reliable information.

13 It's just like I was talking about believing
14 everything you see and read or hear on TV. We know
15 everything out there is not true. But unless the lawyers
16 have an opportunity to test the evidence, it would be
17 highly improper for you to try and gather such evidence.

18 Now, any juror who violates these restrictions
19 jeopardizes the fairness of these proceedings. And what
20 can happen if that happens? A mistrial, which would
21 require the case to start over with a new jury. As you
22 can imagine, a mistrial is a tremendous expense and
23 inconvenience to the parties, the courts and the
24 taxpayers. If any juror is exposed to any outside
25 information or has any difficulty whatsoever in following

1 these instructions I need for you to notify me or let Teri
2 know or let the court personnel know immediately.

3 If you become aware that one of your fellow
4 jurors has done something that violates these instructions
5 you're obligated to report that to the Court as well.

6 If anyone tries to contact you about the case,
7 either directly or indirectly, or send you any information
8 about the case, report that as well.

9 These restrictions remain in effect throughout
10 the trial. Once the trial is over then you can google,
11 tweet, blog, chat until your heart is content or not. You
12 don't have to talk about your jury service, but if you do
13 want to talk about it once the trial is over, you're free
14 to do so.

15 I've said a lot, but it really just boils down
16 to a pretty simple thing: It is your sworn duty, now that
17 you've taken the oath, to decide this case only on the
18 basis of the testimony and evidence presented during the
19 trial without any consideration of any other matters
20 whatsoever.

21 There may be some media coverage of this. So if
22 you pick up the paper you need to -- well, just don't pick
23 up the paper is the best thing to do. But certainly, if
24 you see something in the media that concerns this case
25 you've got to immediately turn it off, put it down, turn

1 away. Don't let anybody talk to you about well, did you
2 see what was in the paper?

3 Now, I've already talked about this a little
4 bit. During the trial it may be necessary for me to
5 confer with the lawyers from time to time out of your
6 hearing concerning questions of law or procedure that I
7 have to decide, that I have to rule on. As I told you I
8 am going to minimize those conferences during your time.
9 The lawyers and I will work late or work early to deal
10 with those issues if at all possible, but sometimes we
11 have to do that and you may have to go back to the jury
12 room for a little bit or we may stand over here like we've
13 been doing earlier today to discuss those issues.

14 Understand that we'll only do that when
15 necessary and then by doing that, hopefully the trial will
16 run a little more smoothly.

17 You have your note pads. You are free to take
18 notes. You're free not to take notes. That's entirely up
19 to you. But your notes -- first you should not get so
20 caught up in note taking that you become distracted from
21 what's going on in the courtroom.

22 Also your notes should be used only as aids to
23 your memory and if your memory should later differ from
24 your notes you should rely upon your memory and not your
25 notes.

1 Again, if you do not take notes you should rely
2 upon your own independent recollection and memory as well
3 as to what the testimony was.

4 If you didn't take notes you should not be
5 unduly influenced by somebody else just because they took
6 notes. Notes are not entitled to any greater weight than
7 the recollection or impression of each juror as to what
8 the testimony was.

9 Again, I will be giving you further instructions
10 at the conclusion of the trial. But those preliminary
11 instructions, I hope, will give you some guidance.

12 At this point the government will present its
13 opening statement. Mr. Christian?

14 MR. CHRISTIAN: Thank you, Your Honor. Good
15 afternoon.

16 A group of correctional officers stood in the
17 gym at Macon State Prison. The officers, including four
18 of the Defendants, were members of a specialized unit
19 called the CERT team, the Correctional Emergency Response
20 Team. Those officers were supervised by a deputy warden
21 who also is one of the Defendants here today.

22 The CERT officers had taken custody of an inmate
23 back in the housing unit. An inmate had hit an officer
24 and CERT had done what it was supposed to do. They had
25 responded to the housing unit and it had taken that inmate

1 into custody, handcuffed him behind his back and walked
2 him across the prison yard without any problem.

3 The CERT officers were supposed to take that
4 inmate to the medical unit to be checked to make sure he
5 didn't have any injuries before he was put in segregation
6 or solitary confinement.

7 The CERT officers took that inmate to the gym on
8 the way to medical. The gym was an area at Macon State
9 Prison that wasn't covered by surveillance cameras. No
10 staff members were assigned to the gym, so there would be
11 no video and no witnesses. The CERT officers knew exactly
12 what they were going to do with that inmate when they got
13 to the gym.

14 When they walked in the gym with the inmate a
15 CERT officer stood and looked at him for a moment. His
16 name was Terrance Dean. The CERT officers looked at Dean
17 for a moment and then the senior CERT officer, Defendant
18 Ronald Lach, hollered, "What are you waiting for? You
19 know what to do." And with that CERT struck. They
20 punched the inmate; they kicked the inmate. You'll hear
21 there was a dog pile of officers on top of the inmate.
22 And they beat him until he was lying motionless on the
23 floor.

24 When they stopped, Inmate Dean was unresponsive.
25 The pupil in one of his eyes was blown and he had a

1 fist-sized hematoma coming out of his forehead.

2 The CERT officers dragged the inmate from the
3 gym, or at least some of the CERT officers dragged the
4 inmate from the gym, to the medical unit, the prison
5 infirmary. The doctor and the nurses at the medical unit,
6 however, couldn't care for someone with injuries that
7 severe. So they had him rushed by ambulance to a nearby
8 hospital.

9 The hospital staff they also, the nurses, the
10 doctor there, could not deal with somebody with that
11 severe of an injury so they had him taken to Atlanta to a
12 medical facility there.

13 Now, with the inmate in the hospital the CERT
14 officers knew there was going to be an investigation. But
15 they weren't particularly worried because they had covered
16 up other beatings before and no doubt expected they could
17 cover up this one as well.

18 So the CERT officers got together and came up
19 with a cover story, a false explanation for how Dean had
20 been injured. And the story that they agreed on was that
21 Inmate Dean in the gym he had snatched away. He started
22 to run away from the officers and then he slipped and
23 fallen and hit his head. That was the story they were
24 going to go with. That was their cover story.

25 They had covered up other beatings before with

1 the assistance of their deputy warden. And it might have
2 worked again. CERT and the deputy warden might have
3 gotten away with yet another cover-up, yet another inmate
4 beating, except the youngest, the most junior, the least
5 experienced member of the CERT team, a man named Willie
6 Redden, sat down for an interview with the Georgia Bureau
7 of Investigation. And Redden repeated the cover story and
8 he repeated the snatched and ran story, and then he
9 stopped and thought about his grandmother, the grandmother
10 who had raised him. And Redden stopped in the interview
11 and said you know what, my grandmother raised me better
12 than this. I'm going to tell you what happened in the
13 gym. Redden admitted that he had beaten Terrance Dean.
14 Redden admitted that his fellow CERT officers had beaten
15 Terrance Dean. Redden admitted that they had beaten
16 Terrance Dean to retaliate to get punishment for Dean for
17 hitting an officer back in the dorm.

18 Now, once Redden came forth the cover up started
19 to unravel. First with Redden and then with another
20 officer and another officer and another officer. You will
21 hear from those officers. Their accounts of the beatings
22 may vary. These are events that were sudden bursts of
23 violence that happened almost four years ago back in 2010.

24 But one thing they will tell you, each one of
25 them will tell you, is that CERT beat inmates to punish

1 them. CERT beat inmates to retaliate from inmates who
2 acted up.

3 This case will be about that CERT practice, this
4 practice of beating people to punish them. It will be
5 about the cover-up, the efforts to cover-up this unlawful
6 practice.

7 You will hear that CERT officers, at the
8 direction, the encouragement of their supervisors, would
9 punish inmates who hit officers by taking them to the gym
10 or to another location that wasn't covered by surveillance
11 cameras.

12 They were supposed to take the inmate from the
13 dorm, from the scene, to medical and then on to solitary
14 confinement. But they would stop in the gym on the way
15 because the gym was the location that didn't have any
16 surveillance cameras.

17 You will hear that officers knew they weren't
18 allowed to punish inmates by beating them. You will hear
19 that officers knew that inmates could be charged, inmates
20 could be punished by a judge, they could be punished
21 within the prison but not by beating them. Officers knew
22 that. But you will hear that's exactly what CERT was
23 doing back in 2010.

24 In 2010, in the fall of 2010 when officers
25 started on CERT they went and talked to their supervisors,

1 their sergeant, Defendant Christopher Hall, their senior
2 officer, Defendant Ronald Lach. They would talk to those
3 officers and Defendant Lach and Defendant Hall would tell
4 them look, this is what happens, if an inmate hits an
5 officer the inmate is going to get beaten by officers.

6 Officers will tell you they knew from their
7 training, they knew from the policies at Macon State, they
8 knew from their common sense, in the United States people
9 could not be beaten to punish them, but they did it
10 anyway. They did it to inmate after inmate after inmate.

11 You will hear that officers knew it was wrong to
12 beat up an inmate even when the inmate had attacked and
13 seriously injured an officer. Officers knew that it
14 violated the oath they had sworn to uphold the
15 Constitution. They knew that but with the direction and
16 encouragement of their supervisors they continued to do
17 it.

18 The officers also will tell you that when they
19 started on CERT in 2010 they met with the deputy warden,
20 one of the supervisors for CERT. And the deputy warden
21 would tell them, look, things are going to be different on
22 CERT than when you were just a plain old correctional
23 officer. And deputy warden now, Defendant Hinton, told
24 them, "What happens on CERT stays on CERT." Officers will
25 tell you they did not know exactly, at first, what

1 Defendant Hinton wanted to keep secret but they would come
2 to learn that Defendant Hinton and the other senior CERT
3 officers expected them to cover up this practice of
4 beating inmates to punish them. For this, the Defendants
5 have been charged with conspiracy.

6 Conspiracy is just a secret agreement. Now to
7 understand how a secret agreement to go and commit a crime
8 works, you need to talk to somebody who is in the inside
9 of that secret agreement. And you'll hear from officers
10 who were part of the conspiracy. They will tell you how
11 this conspiracy worked, how the conspiracy achieved its
12 goals.

13 You will see there were two conspiracies, in
14 fact. One conspiracy was a group of officers who
15 conspired to unlawfully beat inmates to punish them and
16 there was another conspiracy of officers who agreed to
17 cover-up this unlawful practice.

18 The indictment charges Defendants Christopher
19 Hall, Ronald Lach, Delton Rushin, Derrick Wimbush and
20 Tyler Griffin with that first conspiracy, the conspiracy
21 to beat inmates to punish them.

22 It charges all five of those Defendants -- well
23 it charges four of those five Defendants with beating a
24 specific inmate, a man named Terrance Dean.

25 Tyler Griffin isn't charged with beating

1 Terrance Dean. You will see that Tyler Griffin, CERT
2 Officer Tyler Griffin, was not there for the beating of
3 Dean but he was involved in other assaults at Macon State
4 Prison.

5 The indictment charges all of the Defendants,
6 including Tyler Griffin, including Deputy Warden Hinton
7 with covering up this unlawful practice.

8 You will also see that officers are charged with
9 obstruction of justice offenses, for writing false
10 reports, for giving false and misleading statements to
11 investigators, and for corruptly persuading officers to
12 stick with the cover-up.

13 During this trial you will see exactly how this
14 cover-up worked. First and foremost the CERT officers
15 made sure there would be no video evidence. They made
16 sure to take the inmate to the gym or another location
17 where he wouldn't be covered by surveillance cameras. The
18 gym was particularly commonplace, you will see, because
19 there is also no officer assigned to monitor the gym. So
20 there would be no video evidence and no witnesses.

21 Then, even though CERT was supposed to use the
22 handheld video cameras, CERT was supposed to use those
23 cameras to follow the inmate all the way from the housing
24 unit to the medical unit and then to solitary confinement.
25 The whole thing was supposed to be videotaped by a CERT

1 officer with a handheld camera.

2 Well, you may see a video from the housing unit
3 and you may see video from the medical unit. You will not
4 see any video in between. CERT made sure that there would
5 be no video of that escort, no video of what happened in
6 the gym. They would put down the cameras. They would
7 hand the cameras to somebody else. They would leave the
8 cameras turned off and then they would beat the inmate.
9 That was how the cover-up worked. That's how they made
10 sure there wasn't going to be any video.

11 After beating up an inmate off camera the CERT
12 officers would then come back to their office, get
13 together and write the false reports to cover up what they
14 had just done to the inmate.

15 You will hear that officers talked about what
16 explanation, what excuse they could use, what story they
17 could make up to explain how this inmate suddenly had
18 injuries, how they could explain that the inmate left the
19 dorm, left the housing unit uninjured and arrived in
20 medical with injuries, and then in between time he was
21 only in the custody of CERT.

22 So they had to make up some story of how he had
23 been injured. They would either make up a new story or
24 they would just leave out any mention of the force that
25 they used on the inmate.

1 Let me give you an example, Terrance Dean. For
2 Terrance Dean he left the dorm with no injuries. He
3 arrived in medical unresponsive with that fist-sized
4 hematoma coming out of his head. So the officers got
5 together and the story they agreed on was that Dean had
6 snatched and ran, that he had slipped and fallen in the
7 gym.

8 The CERT officers, who have pleaded guilty, will
9 tell you that story was made up. They will tell you the
10 senior CERT officers made up that story and they left the
11 junior guys to hold the bag for this accident, this
12 supposed accident that happened in the gym.

13 The CERT officers who will plead guilty will
14 tell you that story was a false one and that it was made
15 up. But you won't have to rely just on the CERT officers
16 who have pleaded guilty. You will also hear that some of
17 the Defendants have made admissions. Some of the
18 Defendants have admitted that they were involved. Some of
19 the Defendants have admitted that they lied to
20 investigators, that they wrote false witness statements.

21 Defendant Christopher Hall, for example, the
22 CERT sergeant, you'll see his initial statement, the one
23 he turned in at Macon State Prison. Sergeant Hall's
24 initial story was he just walked from the housing unit
25 with the CERT team and Inmate Dean. He walked from the

1 housing unit and when they got to the gym he turned around
2 and went back to the housing unit. And that was Sergeant
3 Hall's first go round. That was consistent with the cover
4 story.

5 And then Sergeant Hall sat down and talked with
6 the GBI, the Georgia Bureau of Investigation. Sergeant
7 Hall gave them the cover story. Sergeant Hall admitted
8 that yes, he was in the gym contrary to what he had
9 written in his statement. Sergeant Hall admitted yes, he
10 had seen officers beat Terrance Dean.

11 You will hear from the GBI agent who interviewed
12 Sergeant Hall. She will tell you what he said. You'll
13 get to see some of her interview with Sergeant Hall. You
14 will see portions of that interview because she videotaped
15 that interview, so you will see exactly what he said to
16 her.

17 Defendant Ronald Lach, that senior CERT team
18 officer, Defendant Ronald Lach also started off with the
19 cover story. You will see his Macon State Prison witness
20 statement. Defendant Lach's first story was he heard
21 somebody shout "Stop", so he looked over and saw Terrance
22 Dean fall down. It's part of the slip-and-fall story to
23 explain Dean's injuries. That was Lach's story. But Lach
24 gave up on that story pretty quickly during his interview
25 with the GBI. Lach admitted actually he was in the gym.

1 Lach admitted that he saw other officers beating an
2 inmate, and Lach admitted that he joined in that beating
3 by walking over and kicking Dean in the side repeatedly.

4 Lach's admissions didn't stop though with just
5 the beating. Lach also admitted that afterwards officers
6 had gotten together and come up with a cover story.
7 Officers had gotten together and made up some story for
8 how Terrance Dean had been injured. And Defendant Lach
9 admitted he actually had come up with the cover story,
10 that it was his idea.

11 You will see the handwritten confession that
12 Defendant Lach turned into the GBI agent who interviewed
13 him, and you will hear from the agent who interviewed
14 Defendant Lach.

15 There is also Defendant Delton Rushin, another
16 CERT team member. You will see his Macon State Prison
17 witness statement. Delton Rushin's first story was pretty
18 much identical to Sergeant Hall's. He had walked from the
19 housing unit with the inmate and with the CERT team. They
20 had gotten all the way to the gym and then Delton Rushin
21 said, "No, I headed back to the housing unit afterwards."
22 That was his story. And Delton Rushin, during his
23 interview with the GBI, Delton Rushin said, "Well, maybe
24 officers might have possibly snatched on Dean a little
25 bit." And Delton Rushin admitted that he was in the gym.

1 And Delton Rushin admitted that he may have possibly put
2 his hands on Dean, but he couldn't say for sure.

3 Once you have heard all of the Defendants'
4 admissions, once you have heard from the officers who have
5 pleaded guilty, once you have heard all the evidence, you
6 will see beyond a reasonable doubt that CERT officers in
7 2010 were beating people to punish them, and that
8 afterwards they were covering it up. They were using the
9 power of their position, their uniform, their badge, their
10 authority, to cover up crimes that they were committing on
11 duty.

12 You'll see that the CERT officers were
13 responsible for the injuries that inmate Terrance Dean
14 suffered in 2010. You will see that CERT officers beat
15 four inmates in a three-month period in 2010.

16 Once you have heard all that evidence there will
17 be but one verdict that is supported by the evidence and
18 that is that the Defendants are guilty as charged. Thank
19 you.

20 THE COURT: Mr. Wolfe?

21 MR. WOLFE: Judge, may we approach for a
22 moment?

23 (BENCH CONFERENCE)

24 MR. WOLFE: -- we argued to you this morning.
25 Mr. Christian just said that CERT beat inmates who acted

1 up. They punished inmates who hit officers. If it
2 happened they were beaten. There was a practice of
3 beating inmates for punishment. It was the practice and
4 policy of the CERT team to beat anybody who assaulted
5 staff or an officer. They said officers.

6 If that's the case, Judge, then I think that it
7 opens the door now to us arguing to them that that's not
8 the case. These are unique instances and, in fact, there
9 were other instances. And I'll go with the timeframe, I'm
10 not going back from October through the December dates
11 where there were assaults on officers and it didn't
12 happen. They opened the door.

13 MR. CHRISTIAN: Absolutely, positively, 100
14 percent no way, Your Honor. It's akin to saying that
15 because they didn't beat every single inmate at Macon
16 State Prison they didn't beat Terrance Dean.

17 It's akin to saying all of our prior good acts,
18 we didn't beat anybody in 2009. We didn't have an
19 agreement in 2009, therefore, we couldn't have had an
20 agreement in 2010.

21 THE COURT: What do you mean when you say these
22 were unique?

23 MR. WOLFE: I'm saying, if it wasn't a
24 conspiracy and something occurred that prompted them to be
25 angry and to act the way they did and use excessive force,

1 that's one thing. That doesn't exculpate them necessarily
2 from the overt acts and the specific substantive offenses.
3 But with regard to the conspiracy, the plan, the scheme to
4 do it to all inmates who acted up --

5 MR. PATE: Inmate, after inmate, after inmate.

6 MR. CHRISTIAN: Four inmates.

7 MR. WOLFE: That's what we have.

8 MS. GOMEZ: Have covered up other beatings
9 before.

10 MR. CHRISTIAN: Four inmates.

11 MS. GOMEZ: No.

12 MR. CHRISTIAN: Yes.

13 MR. PATE: Well, unlimited. You said cover up
14 other beatings.

15 MR. CHRISTIAN: There are other beatings,
16 absolutely. Before Terrance Dean there were three other
17 beatings.

18 THE COURT: So what was your point then?

19 MR. WOLFE: My point would be -- well, I'm only
20 charged in a conspiracy. My point would be that there
21 wasn't a conspiracy to do these things. The fact that
22 these things happened, I can't contest -- but I wasn't
23 there. But the bottom line was it wasn't a conspiracy,
24 everybody didn't get together and plan to do it every time
25 something like this happened. There were unique

1 circumstances on these four instances based upon what
2 happened. And part of it was the severity of the
3 circumstances with Davis with regard to Hinton and with
4 regard to the guard that Dean actually attacked.

5 MR. CHRISTIAN: The guard that Dean attacked
6 got some redness in his face. So, I don't think that was
7 the severity of those injuries prompted that one.

8 MS. GOMEZ: Specifically as to his defense, had
9 covered up other beatings before with the assistance of
10 Deputy Warden Hinton, which were outside of the --

11 MR. WOLFE: It's a conspiracy.

12 MR. CHRISTIAN: No, they were not. Franklin
13 Jones, Mario Westbrook all in 2010. There was the overt
14 acts. It's not a defense to the conspiracy charge to say
15 we didn't commit crimes that aren't mentioned in the
16 indictment. If we prove what's in the indictment then
17 they are guilty.

18 MR. WOLFE: That's my defense.

19 MR. PATE: Judge, the charge of conspiracy is
20 to beat an inmate if an inmate beats a guard. If there
21 were inmates who hit the guards who did not get beat then
22 that shows that there's not a conspiracy. What the
23 conspiracy really is is that a conspiracy that Jones, a
24 conspiracy to get Miller, Westbrook and Dean, just those
25 four.

1 MR. CHRISTIAN: That's what's charged in the
2 indictment.

3 MR. PATE: Is that evidence to include that
4 there was --

5 MR. CHRISTIAN: That's what's charged in the
6 indictment is they conspired to beat these four inmates to
7 punish them.

8 THE COURT: So what is it, what's the point
9 that you want to make?

10 MR. WOLFE: I want to make that if the
11 government is contending that there was a plan and a
12 conspiracy, as was just argued to them by Mr. Christian to
13 assault inmates as a routine practice who assault guards,
14 that's not true and it's not the case.

15 These assaults, this excessive use of force may
16 have occurred on the four instances that they are focusing
17 on, but there wasn't a conspiracy and it wasn't something
18 that was planned to be done the way the government
19 contends.

20 Please let me show you, the plan and purpose of
21 the indictment was to punish inmates for having previously
22 assaulted other MSP officers. To achieve the object the
23 CERT members were to retaliate against inmates by
24 assaulting them. First of all, this indictment and what
25 he just argued about hitting --

1 THE COURT: No, no --

2 MR. WOLFE: -- is my defense.

3 THE COURT: There's a break in your logic there
4 though. To the extent you're saying just because they
5 didn't retaliate every time there was an assault on a
6 guard, that there was no conspiracy. The government has
7 never alleged that every time there was an assault on a
8 guard that there was a retaliatory beating.

9 MR. WOLFE: That's what he just said. It was
10 the practice of --

11 THE COURT: No. He said it happened, it was a
12 practice --

13 MR. WOLFE: He said policy also.

14 THE COURT: Nobody -- I haven't heard any
15 contention that it happened every time. So the logic --
16 now, the argument that there's no conspiracy, that these
17 were unique -- when I say dangerous ground, I think y'all
18 need to give the jury a little more credit than you might
19 be giving them. That's y'all's call on that.

20 But to argue that -- perhaps you feel like your
21 client is in a different position because obviously he's
22 not charged in the beating conspiracy.

23 MR. WOLFE: Right.

24 THE COURT: But the argument is that were these
25 three unique and therefore they were justified?

1 MR. WOLFE: No, no, no. No one's arguing --
2 I'm not arguing --

3 THE COURT: What's the uniqueness then?

4 MR. WOLFE: They were separate individual
5 instances where excessive force was used on the inmates
6 but it wasn't a conspiracy.

7 THE COURT: Well, then argue there was no
8 conspiracy.

9 MR. WOLFE: I intend to. But the --

10 THE COURT: For start, say that.

11 MR. WOLFE: I am going to say that, but I
12 wanted to demonstrate it by the evidence that happened on
13 days right around the time when these -- I've made my
14 argument. It's my defense and I was just really --

15 MR. HOGUE: Well, if you're not done then go
16 ahead.

17 MR. WOLFE: I am done. I have another issue.

18 MR. HOGUE: Okay. I want to take an exception
19 to the sidebar with the huddle where some of us, me up
20 until just this minute, we can't fit in here. I couldn't
21 hear any of it. I have the white noise right there. I'm
22 trying to be involved. I trust my co-defendant's counsel
23 to argue well for their clients, but I just don't know how
24 practical this is with this many lawyers.

25 THE COURT: All right. Then my ruling is the

1 same. We'll stay late, as late as y'all want to stay, but
2 that's my point and everybody can hear, all right.

3 MR. HOGUE: I don't want to punish anybody for
4 it.

5 THE COURT: I'm not punishing anybody. This is
6 exactly what we were trying to avoid.

7 MR. HOGUE: I'm just saying I couldn't hear,
8 that's all.

9 THE COURT: If you need to review any rulings
10 we'll do it when you're through. Now, I've got lawyers
11 telling me they can't hear and we're arguing the same
12 thing time and time again. Proceed with your opening in
13 accordance with the rulings I have made.

14 (BENCH CONFERENCE CONCLUDED)

15 THE COURT: Mr. Wolfe?

16 MR. WOLFE: Judge, I think Mr. Jarrard is going
17 to go first.

18 THE COURT: That's fine. But we are going to
19 need to figure out the order of things. We typically
20 proceed in the order that the Defendants are listed. We
21 will work that out later. But if you want Mr. Jarrard to
22 go first, that's fine.

23 MR. JARRARD: Good afternoon, members of the
24 jury, and thank you for being here. I'm Brian Jarrard and
25 I represent Sergeant Chris Hall, who was a sergeant on the

1 CERT team at Macon State Prison in late 2010.

2 The evidence will show you that this case is not
3 about the conspiracy to violate inmates' rights. It's
4 about these men responding to emergency situations and
5 then, thereafter, as is quite natural, discussing what
6 happened with the men who lived those emergency situations
7 with them.

8 The government, and you will see in its
9 indictment, alleges that on four separate occasions
10 excessive force was used on inmates at Macon State
11 Prison.

12 Franklin Jones, paragraph 6 of the indictment.
13 Mr. Jones was spending life in prison for murder. On
14 October 25th, 2010 Franklin Jones takes electric hair
15 clippers, puts them in a sock and beats viciously
16 Corrections Officer Jason Davis.

17 Paragraph 7 of the indictment says J.M., that's
18 referring to the inmate named Jabaris Miller. Jabaris
19 Miller was sentenced to serve life in prison for murder.
20 Three days after Franklin Jones viciously attacks Officer
21 Davis on October 28th, 2010 Jabaris Miller viciously beats
22 Corrections Officer Sergeant Carlos Felton.

23 Paragraph 8 of the indictment says M.W.,
24 referring to Mario Demetrius Westbrook. Mario Demetrius
25 Westbrook sentenced to serve life in prison for murder.

1 December 14th, 2010 Westbrook sucker punches that
2 gentleman right there, the Deputy Warden of Security,
3 James Hinton, comes at him from the side, pulls back as
4 hard as he can and sucker punches him. Hits him so hard
5 and so violently it breaks his jaw and a tooth. But that
6 was not enough for Mr. Westbrook. You'll see as the
7 evidence plays out in this case Mr. Westbrook is going --
8 this gentleman is trying to defend himself. Mr. Westbrook
9 reaches into his jumper and he pulls out a shank. You
10 will see him try to pull it down, down, as he tries to
11 kill that man right over there.

12 Terrance Bryant Dean, paragraph 9 of the
13 indictment. He is just listed as T.D. sentenced to serve
14 20 years in prison for multiple armed robberies. Two days
15 after Westbrook's vicious attack on Deputy Warden of
16 Security Hinton, Terrance Dean comes up behind Officer
17 Stephen Walden and viciously attacks him.

18 I expect, members of the jury, you will have an
19 opportunity, through the government's case or through the
20 defense case to see these attacks.

21 In all of these instances you will see that the
22 other inmates stand around, cheer, taunt, and in most, if
23 not all of them, actively participate in keeping
24 assistance from coming to the guards being attacked.

25 In all of these instances something called a

1 code three is called. A code three means an inmate is
2 attacking a guard. A code three is a cry for help. A
3 code three is an emergency call. A code three is a call
4 for these men.

5 These men step into emergencies and they step
6 into the emergencies I just described to each of you.
7 These gentlemen were the Correctional Emergency Response
8 Team. We give names and labels because they mean
9 something. These gentlemen responded to emergencies.

10 This is the indictment against my client and
11 these other men. I want to read to you a portion. You'll
12 have the indictment and the judge will go through the law
13 with you. After setting out, the government says in
14 paragraph 6 through 9, they use just a phrase "an inmate
15 struck an officer". But you have just heard the four
16 instances that the government talks about.

17 And then the government says that there was a
18 conspiracy, an agreement to violate the law. The
19 government says my client and these other men willfully
20 combined, conspired, and agreed with one another to
21 injure, oppress, threaten, and intimidate inmates
22 including Franklin Jones, Jabaris Miller, Mario Westbrook
23 and Terrance Dean. In what way? In the free exercise and
24 enjoyment of a right to be free from cruel and unusual
25 punishment.

1 Count Two is what we lawyers call the
2 substantive count. Count Two is just where the government
3 says my client and others, again, willfully -- they say it
4 was willful -- deprived Terrance Dean of the right to be
5 free from cruel and unusual punishment.

6 Members of the jury, the evidence will show you
7 that these men were reacting to emergency conditions.
8 They were reacting to the emergencies I just described to
9 you. And they never acted with a specific intent to
10 violate the rights of these attacking inmates.

11 Now, as Judge Treadwell told you, it's his job
12 to tell you the law. But I'm confident at the end of this
13 trial when the Judge tells you the law he will make clear
14 to you that under the law, under our law, corrections
15 officers are allowed to use force as a good faith effort
16 to further legitimate law enforcement and institutional
17 purposes, such as restoring order and preventing harm to
18 themselves and others.

19 Now, the government, Mr. Christian, also says
20 that these men conspired to obstruct justice. Members of
21 the jury, the evidence will show you that there was a lot
22 of talk and chatter after these instances. There always
23 is. There is always a lot of discussion when you've lived
24 through an emergency with other men about what happened,
25 what was perceived, how it happened. That post attack

1 discussion happened in this case. There was a lot of
2 discussion about what happened and there was a lot of
3 discussion about what happened with Terrance Dean.

4 Mr. Christian mentioned and you'll hear about
5 the two younger members of the CERT team and I suspect
6 you'll hear from them in the government's case in chief,
7 Redden and Douglass-Griffin. These two members of CERT
8 have been convinced that they acted improperly and they
9 are now cooperating with the government in this case,
10 along with others. You'll hear they'll say that this was
11 a conspiracy or that there was some effort to obstruct
12 justice. But I'm confident when you've heard all that was
13 transpiring you'll know and understand that this was no
14 conspiracy, this was these men reacting to emergencies,
15 the emergencies I described to you.

16 In criminal cases, as the Judge alluded to at
17 the beginning, the government goes first and they go first
18 for a reason. They have the burden of proof in this case
19 throughout.

20 I anticipate that we'll probably spend the next
21 week or so with the government bringing witnesses in to
22 convince you that inmate rights were violated.

23 Now, as I defend, as we defend these men, we get
24 the opportunity to cross examine the government's
25 witnesses. We get to test what they saw, what they heard

1 and what they perceive as the events of late 2010 were
2 transpiring.

3 Please remember what Judge Treadwell said as we
4 began. These men, they don't have to prove anything.
5 They are presumed innocent and that presumption of
6 innocence is with them now and it's with them throughout
7 this case.

8 The government at this table, they have to
9 prove to each of you every single element of their case
10 and they have to prove it beyond any reasonable doubt.

11 Members of the jury, I'm confident that when you
12 have heard the full story about what transpired in late
13 2010, after having heard both sides of the story, all of
14 us will get a chance to come back up and present what are
15 called closing arguments to you.

16 I'll tell you now what I'm going to tell you in
17 part then. You are the judges of these men. That is,
18 you're the only judges in this case that matter about what
19 happened. And as the judges of these men, I'm confident,
20 however long this case takes, when we're done, that you
21 will, with absolute confidence, declare that my client,
22 Chris Hall, and the other men who responded to these
23 emergencies with him are not guilty. Thank you.

24 THE COURT: Mr. Fox, I gather you want to go
25 next?

1 MR. FOX: I am, Your Honor. I can almost
2 imagine listening for it above the noise. Anticipating
3 it. Fearing it. Knowing that it is not if, but when, the
4 call will come.

5 At the Macon State Prison there are three
6 primary calls that one may hear. First, is a code one.
7 And what that says is that there has been an
8 inmate-on-inmate altercation.

9 There is a code two. Code two, the evidence
10 will show you, says that an inmate needs medical
11 attention. I doubt you're going to hear about either of
12 those codes.

13 There is the code three. Code three says that
14 there has been an inmate-on-guard attack. And when that
15 call comes at the Macon State Prison everybody stops what
16 they are doing. Everyone knows that if it is possible
17 they have to respond to that call. And everyone knows
18 that they are to answer that call immediately. Because as
19 you will see from the evidence yourselves, when that call
20 comes, it brings with it violence. It brings with it
21 injury. And it brings with it chaos.

22 So when that call comes who will answer it?
23 You'll hear and you'll see that many do. Many people from
24 the Macon State Prison, as they were able to, would
25 respond to a call three, a code three. But principal

1 among those who would respond were the CERT team, the
2 Emergency Response Team. That makes sense because a code
3 three is an emergency.

4 And first among those was Mr. Delton Rushin.

5 Now, when the call came CERT had a variety of duties
6 before it. First among those would be securing the
7 inmate. They would then be required to transport that
8 inmate to another location in the prison. If
9 circumstances required it they may have to return back to
10 the location of the incident, in this case the E dorm, and
11 return to help restore order to chaos.

12 Now, the purpose of this trial, ladies and
13 gentlemen, the purpose of your presence here is to
14 determine what happened all those years ago at the Macon
15 State Prison in the late fall and winter of 2010 after
16 certain code threes were called and then what's happened
17 within the intervening years.

18 Because, you see, you would not be here today,
19 Mr. Rushin would not be here today if we agreed with what
20 the government says happened so many years ago. And
21 because the facts, because the evidence of what happened
22 is in conflict, it's in disorder, we don't agree about it,
23 because the facts are in chaos we need a jury to help put
24 it into some sense of order. You are here to put order to
25 the chaos.

1 Now, there are 22 counts in this indictment and
2 eight of those charge Mr. Delton Rushin with the crimes.

3 He's charged in Count One. You've heard a
4 little bit about it. It's a conspiracy that alleges that
5 my client agreed and entered into an agreement to violate
6 the Eighth Amendment Rights of inmates.

7 He was also charged in Count Two. It's a
8 substantive count that alleges he, himself, deprived
9 Terrance Dean, Inmate Terrance Dean of his Eight Amendment
10 rights in December of 2010.

11 And as to each of these, each is a specific
12 charge and that specific charge requires proof by the
13 government of that which it has charged, not some other
14 crime, but that which it has charged. And the evidence
15 will not show you that Mr. Delton Rushin deprived Terrance
16 Dean of his Eighth Amendment rights.

17 The evidence will not show you that Mr. Rushin
18 entered into any such agreement to do so, that had he had
19 a secret agreement with the deprivation of rights as its
20 common purpose and its common objective.

21 And as you listen to all this evidence you will
22 hear many, many, many pieces of evidence, and that
23 includes evidence of the use of force.

24 Keep in mind that the question at the end of
25 this trial is, is this proof beyond a reasonable doubt?

1 Has the government removed, through its proof, any basis
2 for a reasonable doubt that Mr. Delton Rushin deprived
3 Terrance Dean of his Eighth Amendment rights or that he
4 entered into an agreement with others to do so.

5 The question is not going to be whether there
6 was ever the use of force. The question, based on the
7 specific charges brought by the government, is whether or
8 not there was a deprivation of rights. That's all.

9 Mr. Rushin is also charged in a conspiracy to
10 conceal information and certain overt acts related to
11 that. He's alleged to have corruptly persuaded others to
12 provide false information, to have omitted from his
13 reports information the government believes should have
14 been included or included information which the government
15 contends was false.

16 And again, as to each of these charges, each of
17 these counts, it is a specific charge and it requires
18 proof by the government of that which they have charged
19 and nothing else.

20 And the evidence is not going to show you that
21 Mr. Delton Rushin entered into any agreement by which the
22 common purpose and the common goal was to conceal
23 information or obstruct justice.

24 So, as you hear all these pieces of information
25 in this trial, all this evidence presented to you by the

1 government and by the Defendants, keep in mind the
2 question at the end of this case, is this proof beyond a
3 reasonable doubt? Has the proof submitted by the
4 government removed any reasonable doubt that Mr. Delton
5 Rushin entered into an agreement to conceal information or
6 to obstruct justice?

7 Because when the government charges a crime, a
8 very serious crime, they have to prove the crime that they
9 have charged.

10 Now, Judge Treadwell, he has spent some time
11 telling you about the principles of the law in some very
12 broad strokes. And one of the first things that Judge
13 Treadwell instructed you on is that as Mr. Delton Rushin
14 sits before you today and in the days to come, he is
15 presumed to be innocent. He stands before you as an
16 innocent man. And that presumption of innocence, that
17 innocence is presumed by the law, it is the law, that's
18 where all of this begins. And each of you, by taking the
19 solemn oath to be a juror in this case have agreed to
20 apply the law as it has been given to you.

21 As Mr. Delton sits here right now in front of
22 you he is an innocent man.

23 Mr. Rushin declared his innocence when he stood
24 before the Court and he entered a plea of not guilty
25 saying I am not guilty of that which the government has

1 charged me with. And as I said before, when the
2 government makes a charge, that is the charge that they
3 have to prove.

4 For example, Count One, the alleged conspiracy
5 to violate the rights of inmates. Count One does not
6 charge Delton Rushin with having used force on an inmate
7 before. That's not the charge. Whether or not Delton
8 Rushin has ever used force on an inmate is not the
9 question that is asked and put to you under Count One.

10 The question under Count One is not whether
11 Delton Rushin has ever used excessive force on an inmate.
12 That's not the charge. Whether or not he has used
13 excessive force on an inmate that's not what Count One
14 asks.

15 Count One doesn't charge that Delton Rushin has
16 ever injured an inmate. That's not what he's charged
17 with. Count One charges that he entered into a conspiracy
18 to violate civil rights. That is a charge and that is
19 what the government must prove to you. They must prove
20 the specific charge, each of the specific charges and
21 nothing less.

22 So, throughout this case each of you must remain
23 vigilant in your observations and listen carefully to the
24 evidence presented to you and what's not presented to you.
25 Because ultimately you're going to have to ask yourself is

1 what I heard, what I saw, what I observed, is it clear?
2 Is it unclear? Is it credible? Does it lack credibility?
3 Is this proof beyond a reasonable doubt? Because this is
4 your job, this is your duty, this is the oath that you
5 swore.

6 So when the call came, who answered? Well, you
7 did. You did. Weeks and weeks ago y'all got a letter in
8 the mail from the court. I'd imagine when you opened it
9 you saw that it was a notice of jury duty and it had a
10 questionnaire with a bunch of questions in it. You were
11 probably a little nervous. For most of you this is a new
12 thing. And then in the weeks and days that followed you
13 have probably been a bit anxious. You don't know what's
14 to be expected of you. You don't know what to expect.

15 And then today came, you had to drive from your
16 homes to downtown Macon, park your car and get out and go
17 downstairs into this courthouse and go through security,
18 sit in this room with strangers, a lot of people you've
19 never met before. And if you weren't nervous then, we all
20 started asking you questions, prying questions, and you
21 had to answer them publicly.

22 One thing you'll probably have noticed this
23 morning, though, when roll was taken that there were
24 people who weren't here. Because when the call goes out
25 not everybody answers it. It takes courage to answer it.

1 You guys have shown that courage simply by showing up.
2 You've shown that courage by taking your oath. And I say
3 to you, if you have the courage to show up, to take your
4 oath, then you have the courage to discharge the task that
5 is before you. Because the task before you is great.

6 At times it is going to seem daunting but I
7 promise you this, I am going to do everything I can to be
8 a good steward of your time and of your attention and to
9 try to keep this case moving along while doing everything
10 I can to represent my client to the best of my ability.

11 And I ask from you only this in exchange.

12 First, is that you withhold any judgments whatsoever until
13 you have heard all of the evidence. And, two, when you
14 are seated in this jury box, as difficult as this will be,
15 you must put out of your mind all of those concerns you
16 have about your families, about your jobs and about your
17 personal obligations. You have to focus on the task at
18 hand because it is your job ultimately to create order out
19 of chaos.

20 Now, at the end of this case I'm going to ask
21 you to return a verdict of not guilty on each of the eight
22 counts which have been brought against Mr. Delton Rushin.
23 And that is because the evidence that will be presented to
24 you will not have proven that which has been charged
25 against Mr. Delton Rushin in accordance with the law as it

1 will be given to you.

2 I thank you for your courage and for your time
3 this morning and your attention. I appreciate your
4 attention during this opening statement and I look forward
5 to speaking with each of you at closing. Thank you.

6 THE COURT: Mr. Wolfe?

7 MR. WOLFE: Thank you, Judge. Howdy folks.

8 I'm coming in the middle because I have a
9 different talk to have with you. I represent James
10 Hinton. James, stand up. James is the Deputy Warden at
11 Macon State Prison in charge of security. He is not a
12 guard. He is not a CERT team member. He's in charge of
13 all of the security at Macon State Prison. And they have
14 to walk the perimeter; they have to walk the wood line
15 outside; they had to be careful of who's bringing in
16 contraband; they had to be careful as to who's coming to
17 visit; they have to monitor everything that's going on in
18 the prison. And you might think to yourself, well, that's
19 what guards do. But things are different on CERT.

20 Mr. Christian said that Mr. Hinton told the new
21 CERT officers that things were different on CERT. And I
22 expect the evidence to be that he likely did say it and
23 that it's true. I think you're going to hear that CERT is
24 a limited number of folks that, as these other gentlemen
25 have shared with you, are charged with the responsibility

1 of doing thing that are very, very dangerous. There
2 aren't CERT teams at minimum security prisons. There are
3 not CERT teams at some medium security prisons. There are
4 CERT teams at what is called closed security prisons and
5 that is the type of prison that Macon State Prison is and
6 that's what James Hinton has the responsibility of
7 managing.

8 I think there are about 500 employees here at
9 Macon State Prison. About 300 of them are staff that are
10 responsible for being guards and for going into the
11 locations where the inmates reside.

12 It's important to note that there were 1,729
13 inmates at Macon State Prison in December of 2010. So the
14 odds with regard to protecting folks that are working
15 there, protecting the other guards and protecting some of
16 the inmates from some of the people that were at Macon
17 State Prison is a challenge, to say the least.

18 And let me tell you, that when a CERT team is
19 deployed during a given shift, generally at most prisons
20 there are five CERT team numbers, a sergeant and four
21 others. At Macon State Prison there were eight because of
22 the nature of the folks that live there.

23 I think you'll hear in the evidence that the
24 people who reside at closed security prisons, the
25 offenders that live there fall into one or more of the

1 following categories; they are escape risks, they have
2 assault histories and they are deemed dangerous. That is
3 the nature of the folks that live there and there are
4 1,729 of them.

5 Now, what makes CERT different? What makes
6 things different on CERT? The CERT team is not only
7 responsible for making sure people get from one place to
8 another, they are the people when there is trouble that
9 are tasked with extractions. They have to go into cells
10 and extract violent inmates out. They have to do daily,
11 what is called, shakedowns. They shakedown the prison for
12 weapons like the shank that Mr. Fox and Mr. Jarrard told
13 you about that an inmate tried to use on Deputy Warden
14 Hinton after he had been hit and had his jaw broken when
15 he was in the most dangerous pod in the prison. So that
16 is part of their job. Things are different. All the
17 guards don't have to do that.

18 And you want to know something else? Guess who
19 else gets shaken down by the CERT team? The guards. The
20 guards get shaken down by the CERT team because who do you
21 think is most often responsible for bringing in
22 contraband, cell phones, drugs and getting them to the
23 inmates? It's the guards. So the CERT team is
24 responsible for searching them, searching their lockers
25 and shaking them down. So what happens on CERT stays on

1 CERT. I think Mr. Christian said that Mr. Hinton said
2 that to the people. And it's true also because if you're
3 going to do a shakedown, if you're going to go into a
4 dangerous pod where the folks with this type of history
5 live and you're going to search those pods for weapons or
6 cell phones --

7 You heard about a fellow named Franklin Jones.
8 Franklin Jones got upset and had an altercation with one
9 of the guards. It's going to be the subject -- just
10 because he found a cell phone and he took it.

11 So yeah, what happens on CERT stays on CERT
12 because if they were to know we were coming to do a
13 shakedown of either the inmates or the guards, the
14 shakedown wouldn't be successful and the contraband that
15 they were looking for would not be found. So yeah, he
16 says those things, he said those things and he did those
17 things. Because it's important to do those things.

18 Who is James Hinton? James Hinton grew up here
19 in Montezuma. He went to high school there. He joined
20 the military when he got out of high school. He was
21 airborne. He went to Desert Shield and Desert Storm and
22 came back. And in 1993 joined the Department of
23 Corrections and became an inmate -- not an inmate --
24 became a guard, where? A Correctional Officer. At Macon
25 State Prison. And over the 19 years he was there he rose

1 to sergeant, to lieutenant, and eventually to deputy
2 warden of security at the prison. That's James Hinton.

3 Now, you heard Mr. Christian share with you what
4 Mr. Hinton is alleged to have done and what he expects the
5 evidence to be and I'm glad to know that. Because when
6 you read this indictment Mr. Hinton is charged in one
7 count of this indictment and that's Count Three. His name
8 appears in this indictment three times. Once, in the
9 introduction where they tell you he was the assistant
10 warden. That's what I expect the evidence is going to be.

11 Once, in Count Three where it says he's named as
12 a co-conspirator. And the conspiracy is supposed to be,
13 and I think the evidence is going to be, that Mr. Hinton
14 conspired with some of these fellows to cover up the
15 assaults that had occurred. But I haven't heard anything
16 and I haven't seen a word written in the indictment and I
17 don't expect that there will be any evidence that James
18 Hinton ever told them to write anything, that James Hinton
19 ever mislabeled or miswrote a report himself.

20 And with regard to the four instances set out in
21 the indictment, I think the evidence is going to be that
22 with regard to Franklin Jones, that Mr. Jones got into an
23 altercation with a guard, was taken to medical and did
24 appear to be injured. And when Mr. Hinton went to talk to
25 him he didn't want to say anything. I think the evidence

1 will be that he refused medical treatment. I think the
2 evidence will be that he wouldn't do a grievance. And I
3 think the evidence will be that he was transferred from
4 the prison on November 1st, the incident occurring on
5 October 25th. So less than a week later he's gone and he
6 makes his grievance elsewhere.

7 However, did Mr. Hinton or anybody from -- I
8 think they said the staff -- the upper echelon try to
9 cover anything up? No.

10 I think you'll see that with regard to the
11 Franklin Jones incident, which is the first incident that
12 is laid out in the indictment as a substantive offense
13 with regard to the beatings that allegedly occurred, with
14 regard to the Franklin Jones incident, the incident was
15 advised to the warden to be sent to Internal Affairs for
16 investigation. So if anybody knew that anybody did
17 something wrong or if anybody expected or was expected to
18 cover something up you certainly wouldn't send it to
19 Internal Affairs. But the evidence is going to be that
20 investigation of the Franklin Jones' assault went to
21 Internal Affairs.

22 And when I heard the Judge read the witness list
23 one name I didn't hear -- and I reckon the government is
24 not going to call them so I guess you won't hear -- but I
25 didn't hear any of the investigators for Internal Affairs

1 named. But they were notified and it was sent to them
2 within days of the incident occurring.

3 The next event that I think you're going to hear
4 about has to do with a fellow named Miller. Jabaris
5 Miller. Jabaris Miller got into an altercation with a
6 guard in the cafeteria and they didn't take him to the
7 gymnasium, which my understanding is where the conspiracy
8 was. But I'm not a part of that conspiracy.

9 But at the end of the day, at the end of the day
10 he was brought to medical and when the incident was
11 investigated, James Hinton himself said that the guard in
12 the cafeteria used unnecessary force, and you're going to
13 see it in the evidence. It's on the cover sheet of the
14 Miller incident. It said that the guard force could have
15 been avoided. So if the guard hadn't hit and gotten into
16 an altercation with Miller in the first place he never
17 would have gone up to ID where they say he was assaulted.

18 But at the end of the day that investigation was
19 for an excessive use of force, number one, and it was sent
20 to Internal Affairs also. But the government contends
21 there was a cover up. I think the evidence is going to be
22 that that's simply not the case.

23 Those two instances occurred in October, October
24 25 and October 28. The next instance of problem was on
25 December 14th of 2010 when Mr. Hinton was in the most

1 dangerous pod in the prison taking it off of lockdown.
2 That's why he was there in the first place. The prison
3 had been on lockdown for five days and he was letting them
4 know that we're going to be letting you off lockdown and
5 we're going to get back to normalcy.

6 And at one point while he was standing there,
7 Mr. Westbrook punched him in the jaw and broke it. He
8 pulls out a shank and Deputy Warden Hinton had a camera.
9 The fellow tried to stab him. He said to him, "Drop the
10 weapon and stop." The inmate didn't. He struck him and
11 then CERT and other guards came in, secured the guy and
12 took him away.

13 Mr. Hinton was in the hospital, before anything
14 occurred with regard to an investigation, with a broken
15 jaw. And you're going to hear, the evidence is going to
16 be unequivocal, that as of December 14th of 2010, Mr.
17 Hinton was out, did not return to the prison except for
18 that night after having come back from the hospital, to
19 get his car with his mother and wife and went home and
20 didn't come back to the prison until February the 26th of
21 2011.

22 Now, as I've indicated to you, if you look at
23 the indictment, the indictment does not contend that Mr.
24 Hinton did anything specifically, nothing, not a word in
25 the indictment except overt act number 10 wherein the

1 government alleges that the only light that is shed on any
2 conduct that Mr. Hinton may have been involved with was
3 that on November 13th of 2012, twenty-two months after the
4 investigation began and twenty-three months after he left
5 the prison on December 14th, 2010 and not to return for
6 eight weeks, 10 weeks. They say that Hinton appeared
7 before the grand jury and falsely denied having known in
8 2010 that CERT members had -- and then they used the word
9 assaulted inmates in the gym. Hinton said he didn't know
10 that.

11 Jones, number one, October 24th, you're going to
12 hear, was assaulted in the gym or was injured in the gym
13 by the use of excessive force perhaps. But Miller, the
14 second guy, wasn't. Miller was at ID so he wasn't even in
15 the gym. Hinton was the third guy and the fourth guy was
16 assaulted -- this fellow Dean that all of this is about,
17 you're going to hear, he was injured on December 16th
18 after Hinton had already been gone for two days.

19 But the word assaulted he didn't know. He did
20 hear about the injuries and you'll hear from the grand
21 jury testimony that Mr. Hinton testified at the grand jury
22 and told them, yeah, the warden called me a couple of days
23 after the Dean incident occurred, which would have been on
24 the 17th or 18th, and I read it in the paper the next day
25 that there had been a commotion and an inmate had been

1 taken to the hospital. But that's -- he said he knew
2 about that. So he told them that he knew that something
3 had gone on there. Yet they're saying that's the lie
4 twenty-three months later that prompted his involvement in
5 a cover-up.

6 I think you're also going to hear that this GBI
7 investigation that Mr. Christian was talking about. It
8 began on January 5th of 2010 about two weeks after
9 Terrance Dean came in with the scalp hematoma. And I'll
10 talk to you about that in a minute. But that's the day
11 that allegedly the critical incident occurred.

12 The GBI investigation began on the 5th. Redden
13 started blaming other people within three, four, six days
14 of that and other people may have joined in thereafter,
15 some of them not months and months and months later but --
16 but at the end of the day the GBI investigation began on
17 January 5th of 2010 and it ended in August of 2010 and Mr.
18 Hinton is not a part of that investigation it seems when
19 you read all the reports.

20 And the federal investigation you're going to
21 hear didn't begin until March of 2012, fifteen months
22 later. And it was after that, after individuals had been
23 identified as those who had participated like Mr. Redden,
24 like Mr. McKenzie, like Mr. Bolden, all names that you're
25 going to hear, it was at that time that they begin to tell

1 on other folks and blame them.

2 Dean. This fellow Dean was escorted to the gym.
3 And Mr. Redden, who the government has already shared with
4 you, told a lie at first and said the fellow broke and
5 ran. And then he came back and according to what the
6 government is going to try to introduced in evidence, Mr.
7 Redden said no, it wasn't me, it was those other guys and
8 I joined in too. But I'm going to tell you something, in
9 trying to lie his way through, Mr. Redden establishes
10 clearly through his second statement what did happen. He
11 indicated that he and Mr. Douglass-Griffin, who is another
12 guard that's cooperating to save his own hide because they
13 had been hard on the inmates, were escorting Mr. Dean
14 through the gym and Mr. Redden tells the GBI agent that's
15 interviewing him that we were walking, Douglass-Griffin
16 was on the left, I was on the right and I felt Dean tense
17 up. And when he did, without anybody announcing anything
18 to anybody, without Mr. Lach being there and saying what's
19 going to happen, Mr. Redden, on his own says that, "I
20 stepped in front of him and took him down." And don't
21 forget, ladies and gentlemen, that his hands were behind
22 his back and he landed squarely on the right side of his
23 head precisely where the most serious injuries occurred to
24 Mr. Dean. Precisely where.

25 Redden caused the internal injuries in Mr.

1 Dean's skull. Not any of these gentlemen.

2 The examination at medical indicated that there
3 were no injuries except for some abrasions on his face,
4 which could have occurred during the initial altercation
5 at the dorm where he assaulted an officer. But in any
6 event he had no other injury, although there is
7 conversation and discussion that he was kicked and punched
8 and brutally beaten.

9 But I will tell you this, another cooperating
10 fellow, another guy that's come in here to testify to you
11 folks that the government is going to call, Mr. McKenzie,
12 clarifies and confirms what Redden said. Because he will
13 tell you that after he walked up and ran his finger across
14 his face not because of any conspiracy, because he was
15 upset about the assault that Dean had just been engaged in
16 with regard to one of the guards in the dorm and he told
17 him don't ever mess with my guards and he said as he was
18 walking away Redden threw him to the ground.

19 But Redden is going to come in here and tell you
20 what his grandmother wants him to tell you and he's
21 getting a deal. He's entering a plea. He's getting
22 himself out of this thing. So is Mr. Bolden, so is Mr.
23 McKenzie and so are all of these other fellows. So don't
24 be confused. Don't be confused.

25 With regard to the horrible injury that appeared

1 that Mr. Redden (sic) had sustained, it was called a scalp
2 hematoma. When you have a scalp hematoma that means you
3 have a severe bruising but there is no laceration. So
4 there's nowhere for the blood to escape to. And you're
5 going to hear from the medical folks that the blood vessel
6 bleeds into the skin and it starts to grow into a knot.
7 Y'all have had knots before. But the body -- when the
8 body tries to stop the bleeding it sends fluid to the area
9 and it fills the area up causing pressure to stop the
10 blood. So yeah, it appeared as though he had a huge knot
11 on his forehead about the size of a softball or maybe
12 bigger then that. But that wasn't the severe injury that
13 he sustained. The severe injury he sustained was the
14 injury that was imposed upon him by Mr. Redden when he
15 slammed him to the ground helplessly.

16 But with regard to Mr. Hinton, he wasn't there.
17 He didn't help cover anything up. He didn't order anybody
18 to cover anything up. He trained these guys. He advised
19 these guys, and he was the head of security and he was the
20 head of CERT.

21 And there are times in CERT, you're going to
22 hear, when different degrees of force are necessary and
23 these gentlemen are trained in that regard, all the way up
24 to the use of deadly force, when it's necessary.

25 And I submit to you, ladies and gentlemen, that

1 James Hinton did his job. James Hinton did not conspire
2 with anything. There's no allegation in the indictment he
3 conspired with anybody. And there's certainly not going
4 to be any proof that he caused anybody to inappropriately
5 write a document or that he inappropriately wrote a
6 document. And if, in fact, an investigation was delayed,
7 it was not as a result of Mr. Hinton because on the two
8 opportunities that he had, the two opportunities with
9 regard to Mr. Jones and with regard to Mr. Miller,
10 investigations were started immediately and an
11 identification of excessive force was pointed out and
12 looked into by the appropriate folks.

13 These guys have a dangerous job. They do it and
14 they do it to save lives and to protect people at the
15 prison. And the prisoners -- the prisoners get the
16 benefit of their work.

17 And if there weren't shanks and cell phones and
18 dope and assaults on inmates and guards in the prison
19 there wouldn't be a need for the CERT team. But because
20 there was a need at this prison these fellows did a pretty
21 good job in light of all the circumstances.

22 And at the end of this trial I trust that you'll
23 agree and when you are asked to determine whether or not
24 they are guilty or not guilty of the allegations in the
25 indictment that you will say, they're not guilty. Thank

1 you.

2 THE COURT: Mr. Hogue?

3 MR. HOGUE: Derrick Wimbush never laid a hand
4 on any one of the four inmates named in this indictment.
5 Not one of them. Derrick Wimbush did not write or speak a
6 false word in reporting about any of the incidents that he
7 reported on. And he openly reported on two of these four.

8 Derrick Wimbush never entered any secret
9 agreement, conspiracy with anyone else at Macon State
10 Prison to deprive these inmates of their civil rights or
11 to cover it up.

12 Now, you've heard probably over 200 names
13 already today. The reading of the witness list, the roll
14 call and all the names we lawyers have been throwing
15 around.

16 I'm Franklin Hogue and Derrick Wimbush -- would
17 you stand Derrick. That handsome man there is my client
18 and I'm privileged to represent him.

19 So I'll try not to add to many more names to the
20 load that you're already carrying.

21 Derrick, you will hear in this case, is a man of
22 good character, a man with a reputation for truth telling.

23 He became a CERT member when he joined Macon
24 State Prison after serving some time as a correctional
25 officer and guard first. And the warden appointed him to

1 be in charge of physical training, PT.

2 Now one of the things that they do in PT is they
3 exercise, they run, they do push-ups, they try to stay in
4 shape. You saw him, he's in pretty good shape.

5 The warden appointed him because he also was
6 once a professional football player for the Jacksonville
7 Jaguars and was a standout college player at Fort Valley
8 State. So he knew what to do on a playing field to keep
9 guards and new hires in shape. And, this is important,
10 you'll hear in the evidence he did it nearly every single
11 day he worked at Macon State Prison. In fact, he would
12 come in in the morning, get his papers to find out who was
13 to be in PT that day, either new hires or guards who were
14 continuing to stay in shape, and then he would leave the
15 prison and go to the field, where the track -- at the
16 Board of Education there in Macon County. It's the place
17 where the buses, the school buses are parked.

18 And one of the witnesses we expect you'll hear
19 from is a pastor of his church who was a part-time school
20 bus driver and would stop and say hey to Derrick every day
21 coming in and going out where he parked his school bus
22 where Derrick was doing PT.

23 So he came home from his football career short.
24 It was, just a couple of years and went to work at the
25 prison. And then, as you have heard, in the fall of 2010

1 these incidents occurred with these inmates whose names
2 have been given to you. You'll see them again. They're
3 in the midst of this 33-page indictment. And I'm going to
4 talk to you just briefly about each one of them to tell
5 you the evidence you're going to hear about them and
6 Derrick Wimbush's role or not in them.

7 October 25, 2010 is the first of the four you'll
8 hear about alleged in the conspiracy as one of the four
9 incidents that Derrick Wimbush and others were involved
10 in. It involved an inmate named Franklin Jones. And the
11 day that Franklin Jones' incident occurred Derrick was, as
12 he often was nearly every day, at PT training. When he
13 was finished he returned to the prison just as an
14 ambulance was leaving the prison that had Officer Jason
15 Davis in it. He arrived after that attack, brutal attack,
16 on that officer occurred, saw him leaving in the ambulance
17 and was sent by his superiors to the medical wing where
18 Franklin Jones was, where protocol says he was supposed to
19 be taken and there he was. And Derrick Wimbush was told
20 take over the camera duties, handheld camera, from Tyler
21 Griffin, he has other things we want him to do and so
22 that's what he did. And Derrick Wimbush sat in medical,
23 filmed Franklin Jones for a handful of minutes and then
24 left and wrote a one sentence report that says, "I went to
25 medical and I filmed Franklin Jones", and that's exactly

1 what happened and that was the extent of his involvement.

2 October 28, three days later, Jabaris Miller.

3 Once again, Derrick is at the track, the field, conducting
4 physical training. He did not see or participate or know
5 about, at the time, anything involving Jabaris Miller. He
6 wrote no report about it. He had nothing at all to do
7 with it.

8 Now, fast-forward, December 14, 2010. This is
9 the Mario Westbrook incident, the one where he broke
10 Deputy Warden Hinton's jaw and pulled out a shank in an
11 attempt to kill him. On that incident, on that day,
12 Derrick Wimbush was at home with his mother, with his
13 stepfather, with his brother, in Macon County 45 minutes
14 from the prison where he lived. He got a page, "call
15 Macon State Prison." He called. The prison said Deputy
16 Warden Hinton has been attacked, come over to the prison.
17 Because now it's CERT team. It's time to come in. This
18 is an emergency. We need to respond to it. There are
19 1,700 plus inmates in this place and one of them just
20 attacked the deputy warden. You don't know what's going
21 to happen. That situation is being controlled but there
22 are all these other inmates in the place. And so he's
23 off-duty and told to come to the prison. He didn't even
24 put on a uniform. He got in his car and he went there.
25 When he arrived Deputy Warden Hinton had already been

1 taken away in an ambulance and Westbrook had already been
2 transported off the prison grounds to be removed. He
3 never saw the man. Never wrote a report about it and had
4 nothing to do with it.

5 December 16, two days later, 2010, the Terrance
6 Dean incident. Now you heard the government tell you they
7 expect the evidence to show that after Dean attacked
8 Officer Walden in the E dorm and he was escorted away,
9 taken to the gym where the government says the CERT team
10 beat him. Then the government told you they expect the
11 evidence to show that the officers involved in that
12 beating then got together and came up with a story. And
13 he said, Mr. Christian told you the story they came up
14 with was to write in your reports that Dean snatched and
15 ran and that's how he got his injuries when he ran and
16 fell in the gym.

17 Well Derrick Wimbush again was at PT training
18 that day. When he was finished he returned to the prison.
19 He came through security, as they do. He brings in what's
20 called a chit, a little round coin-like thing that has his
21 name on it. He gives that to security and they give him
22 his keys, the prison keys for him to make his rounds to be
23 able to lock and unlock doors and gates and such. He gets
24 them as he arrives. Dean has already assaulted the guard
25 in the E dorm. And Derrick then left to go toward E dorm

1 but he didn't get there. They had already removed
2 Terrance Dean from E dorm. He was coming through the
3 sally port being escorted by other CERT officers across
4 the big east yard.

5 Now here's something you need to know and the
6 evidence will show it. Whenever guards are moving inmates
7 in a prison across an open space where there may be
8 dozens, scores or even hundreds of other inmates --
9 picture it. You've got maybe two or three guards with an
10 inmate who is handcuffed, perhaps, being escorted across a
11 place where that inmate may have enemies. There are
12 gangs, there are rival gangs. If you've got a guy in
13 handcuffs and you've got a beef with that guy these guards
14 are in a dangerous situation. So they have to have some
15 of their number scatter and clear the yard and keep
16 inmates at bay, lock doors behind the escorting guards so
17 inmates can't follow them into closed places and harm the
18 other inmate or a guard. And that's what Derrick Wimbush
19 was doing that day.

20 When he got there and he got his keys and he
21 went to E dorm and Dean was being taken away by other
22 officers he moved in behind to start locking gates so he
23 could control the movement, control the situation. That's
24 his job.

25 And so he moved his way towards the gym which

1 was the direction toward medical where they were taking
2 Dean. And the officers had already taken Dean into the
3 gym, left the door open or unlocked. Derrick comes
4 behind, comes in the gym and locks the door that leads out
5 to the east yard, and they've already cleared the gym. So
6 he goes across the gym, goes out that door on the other
7 end and locks it and sees Dean being carried into the
8 medical unit.

9 Now, he infers from being carried, well an
10 inmate is either injured because he has resisted or as
11 more often happens inmates just say, well I'm not going
12 with you. What are you going to do? Well then they have
13 to just carry the guy. So they'll get on either side of
14 him, two or three of them and just carry him. So he
15 didn't know. He saw Dean being carried into medical so he
16 locks the gym door. He heads towards medical just as
17 Warden McLaughlin is coming toward medical himself. And
18 he arrives at the medical unit and Derrick Wimbush goes in
19 there after the warden, Warden McLaughlin, the Warden of
20 the prison.

21 He's in medical. He sees Dean in there. Dean
22 is resisting, he's kicking. And he just leaves at some
23 point. His work is over. He's locked gates and doors and
24 leaves.

25 And when he wrote his report, which he didn't

1 even actually have to do, but he had been summoned to come
2 in and lock and unlock and he was there when Dean was in
3 the room so he wrote one anyway. He didn't get with
4 anybody else to come up with a story -- and this is most
5 critical for you to watch when you hear his report and his
6 statements about the Dean incident. Because the
7 government says they had a secret agreement, they got
8 together and they fixed up what they were going to say
9 happened to Dean, snatched and ran. There isn't anything
10 like that in Derrick Wimbush's report. His report says
11 what I just told you. It says, "I didn't see them in the
12 gym. I didn't see anything happen in the gym. I wasn't
13 there."

14 That's what I expect the evidence to show. You
15 won't hear a single credible witness say to you with
16 unmistakable certainty and clarity that Derrick Wimbush
17 inflicted cruel and unusual punishment in violation of his
18 civil rights of a single inmate.

19 Instead, what you will hear in the evidence
20 because you've already heard it in the government's
21 opening statement, is a lot of plural group phrases like
22 they, them, CERT team, officers, guards. You will not
23 hear a single credible witness say with unmistakable
24 certainty and clarity that Derrick Wimbush entered into a
25 secret agreement with others to violate those inmates

1 rights or to write false reports about them.

2 So as you listen to the evidence and you hear a
3 lot of names you'll hear a lot of they, them and them all
4 and guards and so on. But I remind you the one important
5 name that I care about the most, that I will speak for
6 during this trial, is Derrick Wimbush.

7 So I ask you to listen with great care. I see
8 you have notes. And if anybody comes up here and takes
9 the stand and begins to say Derrick Wimbush did this or
10 Derrick Wimbush said that, it's false. I will be up here
11 to speak for him and help you see that those witnesses, if
12 any, are not to be believed.

13 THE COURT: Mr. Pate?

14 MR. PATE: Thank you, Your Honor. I promise I
15 am the last lawyer you have to listen to today. I know
16 it's been an incredibly long day for y'all. Y'all were
17 here early. I saw y'all coming in and you've been very
18 attentive and we appreciate that.

19 I need to talk to y'all and I'm not going to go
20 over all of these incidents. You've heard enough about
21 the inmates that were attacking the guards and what was
22 going on at the prison and what kind of place it is. But
23 I have to talk to you a little bit about my client, Tyler
24 Griffin.

25 Tyler stand up. Thank you. It is going to be,

1 as y'all can probably already tell, very difficult to keep
2 all of these names together. I mean, you've heard guards
3 that were mentioned by Mr. Christian. You've heard six
4 guards mentioned before I stood up. But it is incredibly
5 important that you do keep them straight. Because I
6 anticipate at the end of this trial the Judge is going to
7 tell you not only do you have to weigh the evidence and
8 see if the government has proven their case beyond a
9 reasonable doubt, but you've got to do it for each person
10 individually. Because the case against each person here
11 is not the same.

12 And I say that because I listened to Mr.
13 Christian and literally, as you'll hear through this case,
14 99 percent of what he says has absolutely nothing to do
15 with Tyler Griffin.

16 Tyler Griffin was not part of any conspiracy to
17 assault Terrance Dean. Tyler Griffin was not on the CERT
18 team when that happened. Tyler Griffin was not even at the
19 prison when Mr. Dean's incident occurred.

20 Tyler Griffin, as you will hear, was on the CERT
21 team for a full two months. From September of 2010 to
22 around the end of November 2010. He was not on CERT or
23 even at the prison when this incident with Mario Westbrook
24 occurred. He was not on CERT or even at the prison when
25 this incident with Terrance Dean occurred. He was there

1 just enough time to witness the assault that y'all have
2 heard about of that inmate that attacked Officer Davis
3 with the barber clippers and beat him in the head four or
4 five times. He saw that occur.

5 And then he saw the fistfight that y'all have
6 heard about from the inmate Jabaris Miller who jumped and
7 got into it with a guard in the chow hall. He was around
8 for that.

9 And after those two incidents Tyler Griffin quit
10 CERT. Tyler Griffin went home. Tyler Griffin literally,
11 said I don't want the extra pay. I want to go back to
12 being a regular CO, and that wish was granted. They put
13 him back into a regular assignment and he was literally,
14 though, not at the prison for the last two incidents that
15 are listed in the indictment.

16 He requested, folks, an immediate transfer from
17 Macon State after he saw what he saw. He requested that
18 transfer in December, the same month that these two
19 incidents you've heard about supposedly occurred with Mr.
20 Westbrook and Mr. Dean.

21 And he was transferred. They eventually
22 approved it. He was moved to a different prison. He is
23 currently working, although suspended with pay until this
24 trial is over with, at Bleckley Probation Detention
25 Center.

1 He was nowhere around that place when the
2 Westbrook incident occurred or when this Dean incident
3 occurred.

4 Now, this entire case, this criminal
5 investigation as y'all have heard really began with this
6 GBI investigation. They were asking folks about the
7 Terrance Dean incident. And I expect you're going to hear
8 maybe even from the GBI agent, certainly from some of the
9 folks that that person questioned. They never talked to
10 Tyler Griffin. And they never talked to Tyler Griffin
11 because he had nothing to do with the Terrance Dean
12 incident. He wasn't even at the prison.

13 About two years go by and the federal government
14 gets involved. And the federal government is no longer
15 looking at that. They want to go through all of the
16 records at Macon State. And they go talk to Tyler Griffin
17 because Tyler Griffin, at that point, is the only person
18 who was on CERT either for that short amount of time that
19 hadn't been interviewed.

20 So they go talk to Tyler Griffin and he talks to
21 them. He says "Yeah, absolutely, I'll tell y'all whatever
22 you want to know."

23 They asked him about this Franklin Jones
24 incident. Again, the one with the barber clippers. He
25 said, well I remember the incident. I remember being

1 called to the code three. I remember showing up. This
2 officer was screaming in pain. He literally was bleeding
3 there. He remembers that, he recalls that. And then he
4 told him what he did. He was the new guy. He had been
5 with the CERT team for a matter of weeks at this point.
6 And as everyone is rushing around he's trying to figure
7 out what am I supposed to do. He doesn't have the camera.
8 And he goes to the control booth and somebody gives him
9 the camera. He's got the camera. It's apparently the
10 wrong camera. The supervising officer sends him back to
11 the CERT office to get another camera. He goes and does
12 it, yes, sir, double time. By the time he gets back
13 Franklin Jones is already out of the gym, out of the dorm
14 and on his way into another building at the prison. Tyler
15 Griffin runs, catches up with them and he's got his video
16 camera now and it's working and he videotapes the two
17 other CERT officers escorting Mr. Jones into medical.

18 Later he writes a statement, a handwritten
19 statement, one of these short handwritten statements. I
20 expect y'all are going to see a lot of them, hear about
21 them. Now, he's only been on CERT for a few weeks and he
22 hadn't written one before. Some of the other officers
23 tell him the form that you need to use. They discuss it.
24 You know, I, Officer Griffin, did X, Y and Z and they use
25 the lingo that they use. He wrote it out. And he said,

1 what you'll hear at this trial, that he did, he responded
2 to the code, he got the camera, he filmed the other
3 officers escorting Mr. Jones into medical. He then stayed
4 with Mr. Jones in medical, continued filming it.

5 Eventually had to put shackles on him. End of statement.

6 Everything that he wrote in that statement was
7 100 percent accurate. You do not have to take my word for
8 it. You don't even have to take Tyler's word for it
9 because, folks, you're going to see the video that he
10 took. And you'll see it kind of shaking as he is running
11 to catch up with the folks and then he gets it stabilized
12 and you know what you're going to see? You're going to
13 see Franklin Jones with two CERT officers being escorted
14 into medical.

15 The government, however, is charging Mr. Griffin
16 with being part of this conspiracy to obstruct because
17 they say that handwritten statement is false. I ask you
18 to pay careful attention again not just to what it says
19 but to what you'll see with your own eyes. Because the
20 video is exactly the way that he described it.

21 Now, the FBI also asked him about this other
22 incident you've heard about, Jabaris Miller. He didn't
23 recall that immediately. Didn't remember the guy's name
24 but did recall an incident that occurred in the chow hall
25 -- in the cafeteria where this fight happened. He did

1 respond again. Now remember, this is just three days
2 after the first time. He's still only been on CERT a few
3 weeks.

4 He gets there. He's not in a position where
5 they have to use force on Mr. Miller to keep him in
6 control, but he does see it and he witnesses it. And he
7 tells the FBI, you know, that may have been a little much,
8 but what do I know? I just started here a few weeks ago.
9 He was not in a position to get involved with the use of
10 force but he did witness it.

11 And folks, after seeing those two things Tyler
12 Griffin quit. He resigned from CERT. He went home and he
13 requested an immediate transfer. He was never asked to
14 write a statement about the Miller incident because as far
15 as the prison folks were concerned he wasn't involved.

16 But as a result of that conduct over those two
17 months that you've heard about, he's now charged in two
18 counts of conspiracy and with making false statements to
19 obstruct a federal investigation.

20 You are going to hear a lot of conflicting
21 stories, I anticipate, during this trial. You're going to
22 hear who hit who when, who said what to whom, who wrote
23 what where. If y'all just keep focused on what the
24 charges are and you apply your own common sense to this
25 evidence to this case you're not going to have any problem

1 at all finding the truth.

2 Now, give these folks, give these nice folks
3 from Washington every opportunity in the world to lay out
4 their evidence. They may call these inmates in, I don't
5 know. You're going to hear from a number of witnesses.
6 Give them that opportunity.

7 But at the end of the day when you look at these
8 charges and if you look at this evidence it ain't going to
9 match up, certainly not for this man right there. Thank
10 you.

11 THE COURT: Ms. Gomez?

12 MS. GOMEZ: Your Honor, as we've requested of
13 the Court, we're going to delay our opening until after
14 the government's case is over.

15 THE COURT: That's fine. Thank you.

16 Ladies and gentlemen, that concludes the opening
17 statements for the parties except for Ms. Gomez, and
18 you've just heard she's elected to defer her opening
19 statement.

20 It's a little after five so obviously it's time
21 for us to stop for the day. In just a minute I'm going to
22 let you go back to the jury room. Ms. Hatcher is going to
23 go with you to get your input on scheduling. Specifically
24 what I talked about earlier, does the 8:00 to 2:00 sound
25 good or does the traditional 9:00 to 5:00 sound good.

1 Either way I'm going to need you to be in the jury room 10
2 or 15 minutes before the hour at any rate whenever we
3 start so that we can get started.

4 You will remember that I instructed you at some
5 length about how important it is that you not allow
6 yourselves to be exposed to any information about the case
7 outside of the courtroom. Please remember those
8 instructions. I'm going to bug you, as you will see,
9 every time you come back in the courtroom from an
10 overnight break or from a break I'll want to make sure
11 that nothing has happened that has led you or caused you
12 to disregard those instructions. I think you understand
13 how important that is but we'll talk about it a good bit
14 during the course of the trial. So we will remain seated
15 while you go to the jury room. Thank you.

16 (JURORS EXIT COURTROOM)

17 THE COURT: I do want the Defendants -- I don't
18 care what order you go in I just need to have some idea
19 about what order you want to go in so that I can call on
20 you as appropriate.

21 A general observation after hearing the opening
22 statements, I think that I'm satisfied with my rulings
23 based upon what I know so far. There's just no way the
24 case can be tried in a vacuum where you can't hear at
25 least some of the circumstances relating to the four

1 assaults and specific other events.

2 At the same time, you know, the door is not open
3 to everything that happened in the prison. So that's
4 where we are on that. The government will be ready with
5 its first witness in the morning?

6 MR. CHRISTIAN: Yes, Your Honor.

7 THE COURT: Our IT people are checking to see
8 what we're going to do with regard to an additional
9 monitor for the jurors sitting over here. Bear that in
10 mind, you've got two jurors sitting over here. Don't
11 forget about them. Anything from the prosecution before
12 we adjourn for the day?

13 MR. CHRISTIAN: No, Your Honor. Thank you.

14 THE COURT: Anything from the defense?

15 MR. WOLFE: No. Thank you, Judge.

16 MR. FOX: Your Honor, if I may, when are we
17 going to hear the jury's decision?

18 THE COURT: I was hoping I would have heard by
19 now. I thought there was a consensus among them just from
20 eyeballing them but I certainly could be wrong about that.
21 Why don't you go check Teri and see if they've made a
22 decision about that.

23 COURT SECURITY: 8:00 o'clock.

24 THE COURT: They want to start at 8:00 o'clock?

25 COURT SECURITY: Yes, sir.

1 THE COURT: All right. Then we need to be
2 ready to go by eight o'clock. I will be here by about
3 7:30. As I said, I would like to have them in the box by
4 8:00 o'clock. We are adjourned until then. Thank you
5 all.

6 (The proceedings for 6-9-2014 were thereby concluded)

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1 CERTIFICATE OF OFFICIAL REPORTER

2
3 I, Tammy W. Fletcher, Federal Official Court
4 Reporter, in and for the United States District Court for
5 the Middle District of Georgia, do hereby certify that the
6 foregoing is a true and correct transcript of the reported
7 proceedings held in the above-entitled matter and that the
8 transcript page format is in conformance with the
9 regulations of the Judicial Conference of the United
10 States.

11

12 Dated this 30th day of August, 2014.

13

14 /S/ Tammy W. Fletcher _____

15

TAMMY W. FLETCHER, CCR
FEDERAL OFFICIAL COURT REPORTER

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